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Athenian Political Commissions

A DISSERTATION

SUBMITTED TO THE FACULTY
OF THE GRADUATE SCHOOL OF ARTS AND LITERATURE
IN CANDIDACY FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

DEPARTMENT OF GREEK

BY

FREDERICK D. SMITH

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CHICAGO, ILLINOIS
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PREFACE

The original object of this dissertation was to deal with the entire system of commissions in Athenian government. However, the discovery of a general type of commission, which, for want of a better title, I have named Political, and the conspicuous importance of these commissions in at least two great crises of Athenian political history, led to a detailed study of this single type and to an effort to interpret afresh certain events in the oligarchic revolutions of 411 and 404 B.C.

The subject was first suggested to me by Professor Robert J. Bonner of the University of Chicago, and the dissertation in its present form resulted, almost entirely, from study under the direction of Professor Bonner in his research course in Greek history. Professor Bonner's helpful criticism has attended every step in the progress of the work

I wish, also, to acknowledge the kindness of Dr. A. J. Ladd, editor of the *Quarterly Journal of the University of North Dakota*, for permission to reprint portions of an article (*Q. J. U. N. D.* Vol. VIII, 1918, No. 2) in which I published my main thesis regarding the function of commissions in the revolutionary politics of 411 B. C. This article was published in anticipation of unavoidable delay in the publication of my dissertation as a whole.

F. D. S.

Chicago, Illinois
August, 1920.

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INTRODUCTORY

The term commission in ordinary usage is applied to a temporary, irregular, and appointive office. It carries with it a suggestion of a special task to be performed, of a trust imposed, and of peculiar fitness on the part of the incumbent.

The fundamental application of the term, however, extends much further. The commission principle is the basic conception of the representative system of government, and finds illustration in all the essential features of such a government. Representative legislative and deliberative bodies are in reality commissions of the people.[1]

Perhaps no modern government affords clearer illustration of this fact than that of the United States.[2] In this government, the legislative machinery, consisting as it does of a House and Senate made up of chosen representatives of the people, illustrates the commission principle in its widest and most fundamental application. The more specific and peculiarly American application of this principle is seen in the organization of the two main legislative bodies into smaller units known as standing committees, bearing more or less distinctive titles appropriate to the function which they exercise or to the relations which they bear toward the larger organizations of which they form a part. The object of this arrangement is to facilitate the transaction of the vast amount of business that comes before the legislature. So there has arisen in the legislatures of the government, Federal and of the various states, a system of committees as ramified as legislative business itself.[3]

Special matters which fall out of the usual categories of legislative business and which do not come within the acknowledged province

[1] "In its underlying ideas the word implies that something is committed by a committent. Here its sphere coincides with that of the more familiar term, representative. . . . Time has differentiated the meanings of the words committee and representative, but follow them back toward their beginnings and they approach identity." L. G. McConachie, *Congressional Committees*, p. 4.

[2] *Cyclopedia of American Government.* (Edited by A. C. McLaughlin and A. B. Hart 1914) *s. v.* Commission.

[3] Regarding Committees in the legislature of the Federal government, see *Rules of House of Representatives* X and XI. Cf. Wilson, *Constitutional Government in the United States*, p. 89: "For each important subject of legislation there is a standing committee. . . . Every bill introduced must be sent to a committee. It would be impossible to think of any legitimate subject for legislation upon which a bill could be drawn up for whose consideration no standing committee has been provided."

of any standing committee are usually referred to a "select committee,"[4] which, in its functions and general methods of procedure, is similar to the standing committee. Theoretically, the select committee in American legislative bodies differs from the standing committee only in the fact that it deals with a transitory item of business which for the time may be very important, but is not likely to appear before the legislature again, and does not warrant the creation of a permanent committee. Practical American politics, however, at various times have changed very materially the theoretical purpose and character of the select committee.[5]

Peculiar and difficult situations arising chiefly from the complexity of modern industrial life have made necessary a still further extension of the committee principle in present-day governmental methods. In the legislature of the United States, many subjects are brought up for legislative action which require extended and often expert investigation. Such investigation the members of the legislature have neither time nor ability to make. This often necessitates the creation of a special commission consisting, for the most part, of experts in the particular subject about which the legislative discussion is centered. The duties of such commissions have usually been to make a careful and impartial investigation, to submit the results in a formal report, and to suggest the general nature of the proposed legislation. Doubtless the Royal Commissions of the English government afford the best illustration of this type of investigative commission.[6] Members of English Royal Commissions are usually not members of Parliament or of the government; they are appointed by the Crown on the basis of special qualifications for the investigation and "elucidation of difficult subjects which are attracting public attention, but in regard to which the information is not sufficiently accurate to form a preliminary to legislation."[7]

However, it is not alone in the legislative field that the commission principle has found practical application in modern government. Many commissions are appointed not to make investigations, collect data, hear evidence, and propose recommendations, but to secure the actual accomplishment of some specific object. Administrative and

[4] *Cyclopedia of American Government.*

[5] McConachie, *op. cit.*, p. 148.

[6] See Todd—*Parliamentary Government in England,* Vol. II, p. 345 ff.

[7] *Report of Departmental Committee on the Procedure of Royal Commissions* LVIII (1910), p. 6 ff.

executive commissions appear in innumerable forms in all phases of modern activity.[8] Commissions for the construction of highways, for the control of public printing, for the management of great sewerage and water systems, and for laying out extensive parks are but a few examples of this type. The nature and powers of the commission vary with circumstances. Oftentimes they are made up of a single member only who is almost plenipotentiary within his appointed province. The United States government, the individual state governments, and municipal governments have always recognized the value of this type of commission, but possibly at no time in the history of the nation have these commissions assumed greater importance than during the past few years, when exigencies of war demanded prompt action and centralized executive power.

And so it is readily seen that in modern political practice the commission principle has become institutionalized and has developed into an established and dependable "accessory of government."

It is true, perhaps, that the government of ancient city-states, such as that of Athens, in its simplicity and directness, may afford but little material for detailed comparison with the vast and complex machinery of modern polities. Regarding the comparative study of European and American political institutions, James Bryce says: "The examination and appraisement of the institutions of the United States is, no doubt, full of instruction for Europe, full of encouragement, full of warning; but its chief value lies in what may be called the laws of political biology which it reveals, the new illustrations and enforcements it supplies of general truths in social and political science, some of which were perceived long ago by Plato and Aristotle, but might have been forgotten had not America poured a new stream of light upon them." The closing words of this statement suggest that ancient Athenian and modern American institutions have something in common and that the comparative study of these institutions may not be entirely without value for the political scientist of today.

One of the political institutions common both to the Athenian democracy of the fifth century B.C. and to the American democracy of the twentieth century A.D. is that of commissions. The purpose of this discussion, however, is not to treat in detail of the entire commission system of the Athenians or to elaborate upon modern American

[8] For a general classification of these commissions, see article on Commissions in *Cyclopedia of American Government.* Cf. also F. H. White, *State Boards and Commissions* in *Pol. Science Quarterly* XVIII (1903), p. 631 ff.

parallels, but at this point simply to reiterate the well-known but little appreciated fact that the ancient Athenians were perfectly familiar with the use of commissions for all practical purposes of government. This fact, it is believed, can be best understood by enumerating a few of the more familiar types of Athenian commissions and by illustrating their functions and rôle in ancient political life by a general comparison with modern parallels. This treatment, it is hoped, will serve as a background for the presentation of the particular type of commission with which the subsequent pages of this dissertation deal.

In the Athenian polity many of the complexities of the modern representative system of government were obviated by the direct participation of a comparatively small citizen-body in the affairs of state. The general assembly was the sovereign power. The Athenians were always keenly aware of this and jealously guarded the rights of the Ecclesia. At the same time, however, they recognized the fact that not all the detailed business of the government could be administered by the Ecclesia in its own corporate person.

In spite of the directness of the Athenian government, in spite of the comparative simplicity of Athenian industrial and social life, the system of committees and commissions which evolved in the course of time does not admit of any convenient classification such as characterizes the modern American system. The division into legislative and executive[9] which is fairly accurate for modern commissions would be somewhat confusing for ancient Athenian commissions, for the terms, legislative and executive, as applied to Athenian commissions are not altogether mutually exclusive. Many commissions whose functions were administrative or executive exercised certain legislative and even judicial prerogatives. The Athenians, however, as will be shown later, did employ commissions for purely legislative purposes. Most of their commissions, particularly those in common usage, we can with reasonable accuracy classify as executive.

Just as in a modern representative government, the representative congress, in its final analysis, constitutes a committee or commission of the people as a whole, so the Athenian *βουλή* or Senate was in reality a committee of the Ecclesia.[10] And just as the legislative bodies of

[9] This division is suggested by the *Cyclopedia of American Government.*

[10] Cf. Gilbert, *Gr. Staatsalter*, I p. 308: "Derselbe war der vorberathende Ausschuss der Volksversammlung. . . . "

the United States government are subdivided into standing committees, so the Athenian Boulê was organized into prytanies. In fact, the prytanies in the Athenian constitution are the nearest approximation to a modern standing committee.[11] This resemblance, however, is only in broad, external features and does not apply to details of internal organization. The prytanies, like a modern standing committee, were permanent; i.e. as a body they continued throughout the official existence of the Boulê, but each tribal committee held office for only a tenth part of the year. They dealt for the most part with legislative matters. Their business, however, was not of such volume as to require the division of labor and detailed organization that are required in standing committees of modern legislatures. They handled all of the legislative business that required the probouleutic action of the Senate. Owing to the monthly change in the personnel of the prytanies and the annual rotation of the senatorial office, and to the strict requirement imposed upon the prytanies to report promptly upon matters referred to them, there was little opportunity for pigeon-holing of bills and for other features of political intrigue that in some instances have made modern legislative committees notorious.

Another regular committee of the Athenian Senate and one likewise whose personnel was likely to change each prytany was that of the ten λογισταί chosen by lot from the members of the Boulê to audit the monthly accounts of all state officials.[12] The duties of this Athenian committee were in many ways similar to those now performed in the House of Representatives by nine standing committees, each of which examines the accounts of some one of the departments of the government.[13]

In matters of judicature, also, the Athenians employed a system which was virtually that of a commission. The heliastic juries were regarded as representatives of the people and constituted judicial committees of the Ecclesia. These juries, however, bear no resemblance to the judiciary committees of the House of Representatives, excepting in the continuity of office. They did not exercise supervisory functions over the courts, nor did they enjoy prerogatives of

[11] Gilbert, *ibid.*, p. 302.
[12] Gilbert, *ibid.*, p. 248.
[13] *Rules of House of Representatives*, XI, 41–50.

initiating and considering judicial legislature; their duties in most respects were similar to those of a modern grand jury, but their character, according to Athenian view, was more that of a committee.

The chief executive power of the Athenian state resided in the Ecclesia. But since this power could not be effectively wielded by so large a body, it was necessary to delegate it to regular magistrates, regular boards, and to special commissions of irregular standing, all of whom were directly responsible to the people.[14] The functions, powers, and period of office of regular magistrates were fixed by the constitution and invariable usage. This is, perhaps, the chief distinguishing mark of a regular magistracy.

The term commission in ordinary usage suggests a temporary, irregular, and appointive office. It is, however, applied at times to regular, permanent, and elective offices, which are concerned with executive work more or less technical. Many Athenian offices were commissions in this latter sense of the term. Theoretically they belonged to the regular magisterial system, but their organization assumed the form of administrative boards, and their duties, in many instances, were exactly those of a modern commission. It seems proper, then, to discuss them in this connection and to speak of them as permanent commissions, with the understanding, however, that there is a distinction which Athenian usage makes clear between such commissions and special commissions.[15]

Chief among the Athenian permanent commissions were those charged with important public interests which required constant attention, such as the repair of roads and temples and the control of the food supply. Examples of this type are the five ὁδοποιοί appointed by lot annually, who constituted a commission of public high-ways and the ἱερῶν ἐπισκευασταί, also annual officials who kept

[14] Zimmern, *Greek Commonwealth*, p. 164 ff. (Second Edition, Revised 1915) is inclined to read into the situation in the Athenian Ecclesia the conditions of a modern representative parliament. His statement, p. 165, that the current business of the state was not transacted by the Ecclesia is misleading. The Ecclesia never wholly resigned its sovereign power to committees.

[15] Unfortunately Greek political terminology has no definite and comprehensive term for commission. The word, ἐπιμέλεια is used by Aristotle, *Pol.* IV, 15, 3, and by Aeschines, *Against Ctes.* 13 in distinction from ἀρχή. In practical usage, however, the terms are employed very loosely and afford no definite criteria for determining the status of the offices to which they are applied. Many scholars use the confusing term, extraordinary magistracy, regarding official boards that are in reality special commissions.

the temples of Attica in repair.[16] The σιτωφύλακες[17] formed a permanent board whose duties in some respects were similar to those of modern commissions for the conservation of food. They appear, however, to have had little or no discretionary power and were employed largely to enforce the grain legislation of the state. The essential object of the food bill passed by the congress of the United States government in August 1917 and of the commission empowered "to so guide the trade in fundamental food commodities as to eliminate vicious speculation, extortion, and wasteful practices and to stabilize prices in essential staples"[18] was practically secured in Athens by the appointment of the σιτωφύλακες. The Athenians did, also, employ special food commissions in times of emergency.

Most of the so-called extra-ordinary officials of the Athenians would in modern political parlance be named commissions. These officials, "who were chosen in cases of necessity, and who undertook any duty imposed upon them by the voice of the people were of three classes; first, overseers of public works, second, those intrusted with the completion of some state business exceeding thirty days, third, those who, elected by the tribes, had to perform a task to be carried out partly at state expense."[19] It is the existence of these boards in almost infinite number and variety that indicates beyond a doubt that the Athenians were perfectly familiar with the commission principle in all its most practical applications. It will serve our present purpose to deal with only a few of the most representative of these commissions.

First, must be mentioned commissions of public works, ἐπιστάται τῶν δημοσίων ἔργων. Among the several boards included under this title, perhaps the most important in Athenian life and the most interesting for modern comparison were those appointed for general supervision of state buildings in course of construction. The duties of these boards were entirely administrative. They were responsible for the administration of all funds appropriated by the state for the building; they supervised the purchasing of building material and let the contracts to masterworkmen. They were assisted in the more technical details of their work by an expert architect who was hired

[16] Gilbert, *Gr. Staatsalt*, I, p. 292.

[17] Gilbert, *ibid.*, p. 289.

[18] Statement of Mr. Hoover, appointed food commissioner of the United States, Aug. 1917.

[19] Gilbert, *op. cit.*, p. 238. Eng. translation, Brooks and Nicklin, p. 214.

by the state, and who, under the guidance of the commission, directed the actual work of building and upon whose recommendation the contractors were paid. Building commissions of this kind were undoubtedly made up of men of practical business experience and unquestioned administrative ability. In nearly every case there was attached to the commission an official secretary who kept records of the proceedings of the commission's activity, especially of its expenditures. In case the construction of a building extended over a considerable length of time, possibly years, the official records of the commission were dated from the beginning of the commission's work. Commissions of this kind were apparently not chosen by lot[20] and were undoubtedly not subject to annual election,[21] but were, in all probability, retained in office as long as their services were needed and as long as they were found to be efficient. It is clear that boards of ἐπιστάται of this kind constituted commissions in every sense of the term.

Very often the task of financing public works was assigned to one or more of the tribes. In this case, commissions were elected, not from the entire citizen-body, but from the membership of the tribes concerned. The τειχοποιοί constituted tribal commissions of this kind.[22]

The administration of the Athenian navy was entrusted to several commissions. The Senate, subject to the approval of the Ecclesia, annually appropriated funds for the construction of new battle ships. A special committee of the Senate or, as was usually the case, commissions named by the tribes supervised the actual construction and equipment of the vessels.[23] Expert naval architects were frequently employed in connection with these commissions. In time of war or other emergency, special commissions were elected to facilitate rapid equipment and dispatch of the fleet. The combined duties of these commissions resemble those of the "corporation for the emergency fleet" recently created by the United States government. The ἐπιστάται τοῦ ναυτικοῦ doubtless assumed general supervision of the equipment of the fleet and the ἀποστολεῖς hastened the process as

[20] Aeschines, *Against Ctes.* 14, indicates that ἐπιστάται of this kind were elected by ἐπιχειροτονία.

[21] Cf. Foucart, *Bull. de Corr. Hellen.* XIII (1889), p. 176.

[22] Gilbert, *op. cit.*, p. 294.

[23] Gilbert, *ibid.* Cf. also Schoemann, p. 464.

much as possible, especially by calling to account recalcitrant or indifferent trierachs.[24]

In times of food shortage at Athens, special commissions known as σιτῶναι were elected to purchase supplies of corn and to supervise their distribution. These special commissions doubtless coöperated with the σιτωφύλακεις, the standing food commission at Athens. The number of the σιτῶναι varied according to circumstances. In some cases, one member was sufficient, at other times the membership numbered ten or twelve and a secretary. The office of σιτώνης was one of considerable importance and the members of these commissions were elected and not chosen by lot.[25]

Special commissions were also employed by the Athenians on the occasion of sacred festivals to supplement the regular staff of religious officials.[26] One of the most important of this type were commissions known as ἱεροποιοί, who officiated at each of the more important festivals. For the Dionysia, ten ἱεροποιοί were chosen from the Senate; for the Eleusinia, ten ἱεροποιοί were selected from the prytanies; for the Hephaesteia and the Promethia, a commission was employed consisting of over twenty members, ten chosen by lot from the Senate according to tribes, ten chosen from the heliastic juries, according to tribes. The demarchs seem to have been ex officio members of these commissions.

It is difficult from our limited source material to determine in detail the functions and character of these religious commissions. It is clear that they assisted the regular annual ἱεροποιοί; that the office was one of high honor; and that it had certain judicial powers. Aside from these points, important enough in themselves, the most significant fact for our present discussion is that the ἱεροποιοί constituted a commission, distinct from the regular annual office which bore the same title.[27]

This discovery, which is credited to Schoell, establishes the fact that the Athenians made a distinction between a commission and a regular office. This distinction too, as the epigraphical basis of Schoell's theory indicates, was known to the Athenians of the fifth

[24] Schoemann, *ibid.*

[25] Gilbert, *op. cit.*, p. 294.

[26] See Schoell, *Athenische Fest Commissionen, Ber. d. Bay. Akad. d. Wiss.* 1887.

[27] Schoell, *ibid.*, p. 10. "*. . . haben wir nicht ein ständiges Collegium, sondern besonderne für jedes Fest eigenes bestellte Ausschüsse.*"

century. Most of the commissions touched upon in the foregoing paragraphs are clearly authenticated for the fourth century, but in the *ἱεροποιοί* we have an unquestioned fifth century institution. The significance of this will become more apparent in our discussion of political commissions.

Other boards of various kinds used in various departments of the Athenian government might be introduced at this point, but doubtless enough have been mentioned to show that Athenian democracy understood the commission principle, first, in its general application as illustrated, for example, in the prytanies of the Senate, and secondly, in its more specific and almost technical application as exemplified in the *ἱεροποιοί* or the *ἐπιστάται τῶν δημοσίων ἔργων*. The development of this principle, it seems, was gradual, but by the Periclean age, with the full bloom of democracy, it had reached a point of almost complete evolution and had become institutionalized. Many species of the genus commission existed among the Athenians and it is not strange that in the course of their constitutional and institutional history a type should emerge that can be recognized as distinctly political. It is with this general type and other minor and subsidiary types of commission that this study in the main deals. Practical fifth century Athenian politics and the peculiar political environments which called these commissions into existence must also be considered. So an effort will be made to do more than catalogue the mere statistical data of these commissions.

CHAPTER I

EARLY POLITICAL COMMISSIONS

Draco 624(?) B.C.

In the early history of the Grecian states, it is almost universally true that the work of general political reform was entrusted to single individuals.[1] As a rule the person so distinguished was an influential citizen and almost invariably a member of the nobility. For example, Zaleukos was delegated by the Locrians to draw up a legal code; Charondas performed a similar service for the city of Catana; Andromadas of Rhegium was invited by the Thracian Chalcidaeans to settle their social and political problems and to codify their laws.

The history of Athens furnishes equally noteworthy examples of this practice. For Attica in the early seventh century, like other citizen-communities of the Greek world, experienced the upheaval of social and political reform. The nobles for half a century had been the governing class, and the political system of this aristocracy had tended to crush the masses. The Eupatridae appropriated all the benefits of the state and enjoyed every means of prosperity, while the middle class, the small proprietors, became constantly poorer, and the poor became slaves, crushed by a burden of debt secured by their own person. The entire political and social situation, as well as the fundamental reason for reform, is expressed in a brief sentence of Aristotle's *Constitution of Athens:* *οὐδενὸς γὰρ ὡς εἰπεῖν ἐτύγχανον μετέχοντες.*[2]

At Athens, as elsewhere, the struggle for political liberty manifested itself in an insistent demand for written laws and definite principles upon which to base the administration of justice. The distinctive privilege which the nobles had always enjoyed was the exclusive knowledge and administration of the laws. They were, therefore, open to the charge of exercising this privilege in their own favor.[3] To relieve the oppression of this aristocratic system, and to effect a compromise between the Eupatridae and the commons, Draco was commissioned to write down the laws of the state by which all classes alike should be governed.

[1] Meyer, *Geschichte des Alter.* II, p. 567.

[2] II, 3.

[3] Meyer, *Gesch. Alt.* II, p. 566, notes that as early as Hesiod there are instances of judicial favoritism and bribery.

It is far beyond the purpose of this discussion to do more than to suggest the broad outlines of Draco's activity as a political commissioner. He was elected as one of the nine archons, but was not the archon eponymous. Aristotle's statement: *ἐπὶ Ἀριστᾶίχμου ἄρχοντος, Δράκων τοὺς θεσμοὺς ἔθηκεν*, confirms Grote's view that he was one of the six Thesmothetae. Like Solon, whose activity will be discussed in the following section, he served in the double capacity of magistrate and law-giver. The official duty of the Thesmothetae was to record the enactments of the laws and the decisions of judicial magistrates, with a view to applying them to future cases of a similar nature.[4] The thesmia published by the Thesmothetae were unsatisfactory because they were based upon variable unwritten usage and upon arbitrary decisions. So Draco was commissioned to codify the laws and to outline methods for the administration of justice. His commission apparently expired at the close of the official year, for, as Aristotle distinctly states, the Thesmothetae held office only for one year.[5]

Until within recent years, Draco's commission was regarded as entirely legislative. But this unanimity of opinion has been disturbed somewhat by the discovery of the so-called Draconian constitution in Aristotle's *Constitution of Athens*. There are, however, numerous considerations in favor of the earlier impression.[6] The constitution which Aristotle ascribes to Draco, it has been observed, is entirely out of keeping with the situation at Draco's time and is more consistent with the state of affairs which prevailed in the latter part of the fifth century. The constitution is unknown to other writers and the emphasis which Aristotle lays upon Draco's extensive activity as a general political reformer is inconsistent both with the accounts of other writers and with statements of Aristotle himself in the *Constitution of Athens* and in the *Politics*.

These facts and others which need not be mentioned here in detail may perhaps tend to discredit, if not actually disprove, Draco's connection with the constitution which passes under his name in Aristotle's constitutional history. His activity as a legislator, however, stands unquestioned, even though most of his laws, excepting those pertaining to homicide were repealed by Solon.

[4] Aristotle, *Constitution of Athens* III 4. Cf. Sandys' note *ad loc.*

[5] *Constitution of Athens* III 4.

[6] The arguments for both views are summarized by Sandys, note to Aristotle, *Constitution of Athens* IV.

Draco's appointment as a special Thesmothetes and the general nature of his work form a necessary part of the history of Athenian political commissions. These facts, however, merely illustrate the working of the commission principle in its incipiency. The analogy therefore can not be pressed. The essential fact may be simply stated: Draco, in the capacity of a special Thesmothetes, performed a task which, under the Athenian democracy, would have been entrusted to a board, possibly of several members, who would have been directly responsible to the people. Draco apparently was under no restriction whatever and enjoyed absolute discretionary power to introduce new laws or revise those which already existed. He held office for one year.

Solon 594 B.C.

The most beneficial result of Draco's work as a political commissioner was that he put the laws in written form and thus furnished a definite basis for the administration of justice. As suggested above, Draco did not undertake a universal political reform. His sole task was to codify the laws; he made little effort to adapt them to the social situation of the time. His work as a whole proved disappointing to the lower classes who looked to him for relief from their social ills. Draco achieved a great deal, but he failed to get at the real root of the evil. The misery and poverty of the lower classes continued as before, and party strife became more bitter than ever.[7]

In this situation, Solon was appointed, with the approval of all contending factions, as mediator and general reformer. He was chosen as διαλλακτής, and at the same time was vested with the high office of archon.[8] Plutarch[9] states that the functions of νομοθέτης were added to those of διαλλακτής and ἄρχων. His activity was not confined to the legal field. He repealed all of Draco's laws excepting those which pertained to homicide and made new ones. But he did far more than this. He instituted sweeping political and social reforms of a most fundamental character. In the triple capacity of arbitrator, chief magistrate, and legislator, he occupied a unique position as a political commissioner. He could not only suggest lines of reform, but could actually put them into execution. And this he proceeded to do, irrespective of party interests.

[7] Aristotle, *Constitution of Athens*, V. 2.

[8] *Ibid.*

[9] *Vit. Sol.* xiv and *Praecepta Gerendae Reipublicae*, 805 E.

Solon's commission was part of his official duties as archon. As such, it was subject to the same limitations of time as the archonship. It was apparently intended to extend only over one year and expired at the conclusion of the official term.

Such a commission as devolved upon Solon would have afforded a Greek of less exalted character an excellent steppingstone to a tyranny. Solon's uncompromising and unselfish execution of his commission stands out in sharp contrast to the traitorous conduct of the Thirty, who, in 404, were entrusted with a similar task, but exercised their power as commissioners with far different results for Athens. This contrast is all the more remarkable when it is recalled that in 404 the commission principle was formulated into a definite and well regulated institution, while in Solon's time it had no such limitations or restrictions as were imposed by the Athenian democracy of the fifth century. Theoretically, Solon was called upon to perform the same task for the Athenians as the Thirty, under far different circumstances, to be sure, and with much wider discretionary power. But even so, as Bury remarks, he did "not become an aesymnetes—a legislator like Pittacus, who for a number of years supersedes the constitution in order to reform it, and rules for that time with the absolute power of a tyrant."[10]

Aristeides 478–7 B.C.

After the establishment of the Athenian democracy, the commission principle, as will be shown in the next chapter, developed into an institution which became a peculiar feature of democratic administration. Even at that time, however, there is a noteworthy instance which illustrates the working of the principle rather than the institution. The commission referred to is that of Aristeides, who was appointed to make the levy of tribute upon the cities of the Delian confederacy. The peculiar circumstances and manner of Aristeides' appointment puts his commission in a special class. It belongs to the category of the early commissions discussed in the preceding pages rather than to that of the Athenian commissions under the democracy.

If Aristeides had been elected by the Athenian Ecclesia, the nature of his office would have been slightly different. As it was, his election came from the general synod of the confederate cities.[11]

[10] *History of Greece*, p. 187.

[11] Plutarch, *Vit. Aristid.* xxiv.

As Grote[12] observes, Aristeides was entitled to attend the synod by virtue of his office as commander-in-chief of the Athenian military forces. The Athenians apparently had no more voice in his election as assessor than the other members of the confederacy. And after his election, he was not responsible to the Athenian Ecclesia nor subject to the same limitations and regulations as commissions which were strictly Athenian. His commission illustrates the operation of the principle rather than the institution. This fact seems to warrant the classification of Aristeides' commission along with those of Solon and Draco.

There are perhaps only two features of Aristeides' commission that are vitally concerned with this discussion. The first has already been suggested in the preceding paragraph, viz. the manner of Aristeides' election. He was undoubtedly appointed by a special psephism presented to the general assembly of the allies.

The second feature of Aristeides' commission is clearly stated by Plutarch: . . . καὶ προσέταξαν αὐτῷ χώραν τε καὶ προσόδους ἐπισκεψάμενον ὁρίσαι τὸ κατὰ ἀξίαν ἑκάστῳ καὶ δύναμιν. . . . From this it appears that Aristeides was endowed with functions similar to those of a type of commission later known to the Athenians as συγγραφεῖς. The essential function of these commissioners was to make investigations and to present recommendations. Aristeides was given precisely this task. He was empowered to make a careful examination of the income and the territory of the confederated cities and to propose a scheme of assessment on the basis of this investigation. His report, it seems, was subject to the approval of the synod.

The universal favor with which Aristeides' levy was regarded, both at the time of its original proposition, and also later when the Delian league had ceased to be a federation of autonomous states, is indication enough of the thorough and just manner in which Aristeides performed his task. In later times, it was cited as a special tribute to his honesty that, although he held a position which afforded large opportunity for peculation, he remained poor all his life and was buried at public expense.[13]

[12] *Hist. of Greece*, V, p. 264 and note.
[13] Demos. xxiii, 209.

CHAPTER II

THE INSTITUTION OF POLITICAL COMMISSIONS

Such commissions as that of Draco and Solon clearly show that the Athenians early in their history were familiar with the use of the commission principle for political purposes. As has already been indicated, these instances are isolated and are not part of a definite institution. It was not until the period after the Persian Wars that commissions began to assume the form of an institution, which, in the course of time, became a part of the democratic system of government. The instances quoted in the preceding chapter are connected with the history of political commissions as an institution, since they show the fundamental principle, but not the conscious form of the institution.

The chief object of this chapter will be to investigate political commissions as an institution and to set forth such facts as are available regarding their general nature, their scope, and the processes of their working. In this way, it will be possible to obtain the best vantage point from which to survey the political commissions of the earlier period as well as those that belong to the time after the Peloponnesian War. From this view-point also can best be understood the hostile attitude of the Athenians in the fourth century toward that type of commission which was, in no small degree, responsible for the political upheaval in 411 and 404.

Commissions of συγγραφεῖς

Perhaps the most highly developed form of commission among the Athenians was that called technically συγγραφεῖς. The known instances of the use of syngrapheis before the year 411 are very few,[1] but they are enough to show definitely a wide range of application and to suggest a still wider one. The syngrapheis, as will be shown later, were not used exclusively for political purposes, although it happens that the most striking illustrations of their activity in the later history of the institution are connected with great political revolutions. Nor is it true that the syngrapheis constituted the sole type of political commissions, but they seem to have become most

[1] These instances are all collected by Foucart, *Bull. de Corr. Hellen.* IV (1880), p. 225 ff. Foucart's article contains all the available epigraphical material regarding syngrapheis.

commonly used in all departments of public activity, and therefore may rightly be taken as illustrative of the institution as a whole.

It will be advantageous, then, at this point to discuss those earlier instances of syngrapheis which afford the most detailed information regarding the working of the institution. For the sake of obtaining a more comprehensive view, it will be necessary to anticipate in certain particulars the later chapters of this dissertation in which the revolutionary syngrapheis of 411 and 404 will be treated in detail.

The Eleusinian *συγγραφεῖς*

By far the most important document for the history and practical working of commissions as an institution, is an inscription[2] discovered at Eleusis in the year 1880. The commissioners whose activity is recorded in the decree were called *συγγραφεῖς* and constituted a religious commission. Their work, however, had an important political significance in that it concerned certain relations of Athens to the subject and allied cities of her empire.[3] This board was appointed to make an investigation regarding the restoration of an ancient religious practice and to present suitable recommendations to the Senate and the Assembly. The matter in question was the offerings of first fruits of the harvest to the Eleusinian goddesses, a religious ceremony connected with the early history of Athens, but which, at this time, had fallen into general disuse.

The document is divided into two parts, the first of which contains the commission's report and its ratification; the second records a motion made by a certain Lampon. This motion has the form of an amendment and, along with other additional measures, provides for the adoption of the report. The commission apparently made a thorough-going investigation of the matter entrusted to it and presented a detailed report which was passed upon both by the Senate and the Ecclesia, and, according to the provision of the amending psephism was, along with the amendment itself, recorded by the clerk of the Senate in the formal manner of a decree. The recommendations made by the commission are referred to collectively as a *συγγραφαί*.

[2] *C. I. A.* iv 27b, p. 59. Dittenberger I, 20. Michel, *Recueil d' inscript. grec.* 71 p. 80. See Foucart *op. cit.*

[3] l. 22 [κήρυκα]ς δὲ ἐλομένη ἡ βουλὴ πεμφσάτω ἐς τὰς πόλεις ἀ[γ]γέλον[τ]ας. . . .

l. 30 ἐπαγγέλλειν δὲ τὴν βουλὴν καὶ τῆσι ἄλλησι πόλεσιν τῆ[σι] Ἑλ]ληνικῆσιν ἁπάσησι. . . .

In their report, the commissioners advise the restoration of the offerings, because of the ancient sanctity of the ceremony, and also because of the urgent injunction of the Delphic oracle. This latter circumstance may possibly be considered the occasion of the commission's appointment. The greater part of the report is occupied with detailed provisions for levying, collecting, and disposing of the contributions of wheat and barley. The commission fixes the rate of taxation, names the officials who are to superintend the work, and arranges all details of the sacrificial ceremony. They also recommend that the Senate send heralds to inform the allies of the people's action regarding the Eleusinian offerings and to levy a tribute upon them. Further, an invitation is to be sent, as widely as possible, to the independent Greek cities to join with Athens and her allies in restoring this ancestral custom of their common religion. It is this provision which gives special political significance to the work of the commission. This proposal was apparently designed to help consolidate the Athenian empire by establishing common religious rites.

These recommendations constitute the *συγγραφαὶ τῆς ἀπαρχῆς τοῦ κάρπου τοῖν θεοῖν*. They were presented first to the Senate and then to the Assembly. The entire report was thrown open for general discussion in the Assembly and was subject to revision and amendment, as may be inferred from the psephism of Lampon appended to the report as an amendment. Lampon first proposed that the syngraphae be recorded permanently upon two stelae, one of which was to be erected at Eleusis, the other on the Acropolis. The secretary of the Senate should superintend the transcription of the syngraphae, the poletae should procure the material, and the kolakretae should furnish the funds from the treasury. He then suggested definite additions to the syngraphae. The incoming archon should insert an intercalary period in the month of Hecatombaeon during which the festival in honor of the Eleusinian goddesses should be celebrated. The next item of Lampon's motion, designed to secure the sanctity of the Pelasgic *τέμενος*, seems irrelevant to the main order of business and can not be connected with the syngraphae except perhaps on the assumption that the voice of the oracle which originally prompted the appointment of the syngrapheis issued warning also regarding the neglected condition of the *τέμενος*.[4] This

[4] Foucart, *op. cit.* p. 255.

was regarded as secondary to the *ἀπαρχὴ τοῦ κάρπου τοῖν θεοῖν* and perhaps was not referred to the original commission and hence was not included in their report. Lampon concludes his amendment with the proposal that he himself be appointed as a single syngrapheus to perform a service similar to that just reported upon and to make recommendations to the Senate regarding offerings of olive oil.

The introductory formula of the decree, *ἔδοξε τῇ βουλῇ καὶ τῷ δήμῳ*, shows that Lampon was elected as syngrapheus. This Lampon is identified by Foucart with the exegete who, in spite of the attacks of the comic poets, seems to have been a man of considerable prominence in public affairs.[5] He may, as Foucart suggests, have been a member of the original syngrapheis; he may possibly have served as chairman of the board. At any rate, the confident manner in which he presents his amendment indicates a certain amount of experience in matters of religious ceremony, and would tend to secure for him the support of the people. No intimation is given in the inscription as to why the original board was not re-appointed and requested to carry its task to a logical conclusion by investigating the offerings of oil. The work assigned the new commission may not have involved such extensive investigation, but it may have required the expert knowledge of a man such as Lampon, or in other ways it may have been a service which could more expeditiously be performed by one syngrapheus than by a commission of several members. Whatever the situation, the interesting fact remains that a commission could consist of only one member who would present his report in the same manner as a larger commission. The verb which outlines Lampon's proposed activity (*περὶ δὲ τοῦ ἐλαίου τῆς ἀπαρχῆς χσυγγράφσας*) is the same as that which defines the duty performed by the larger commission (*τάδε οἱ χσυγγραφῆς χσυνέγραφσαν*). There is, then, in this inscription reference to two commissions of exactly the same nature, of the same competence, and appointed to the same general field of investigation. The two parts of the inscription, the syngraphae, and the additional psephism, afford a complete illustration of the working of syngrapheis. All the details set forth in Lampon's amendment regarding the preliminary steps in his appointment and in the outlining of his powers as syngrapheus apply equally to the larger commission. It is evident, too, that the syngraphae and the amendment illustrate the processes employed by both commissions

[5] *Ibid.* p. 247.

in the execution of their duty and in presenting their report. And these illustrations, also, it is possible to take as typical of the entire institution. The general evidence which they afford will be accumulated later and presented in more detailed form after the consideration of other instances of syngrapheis.

The Thracian συγγραφεῖς

The existence of this board may be inferred from the brief phrase, *κατὰ τὰς συγγραφάς*, which appears in an inscription,[6] which, unlike the Eleusinian document, can not be classified as a *συγγραφαί*. The opening lines are entirely lost, but there is preserved a rider which definitely identifies the measure with the name of Democleides.

This phrase[7] undoubtedly has the same technical meaning which is seen in the Eleusinian inscription, and indicates that a commission of syngrapheis had been appointed some time before Democleides' motion was presented, and that its report had been ratified and was in force at that time.

How far the work of this Thracian commission is reflected in Democleides' decree can not be determined. The reference to the commission appears in the following context: *ἐὰν δέ τις ἐπιστρα[τεύηι τὴν γῆ]ν τὴν τῶν ἀποίκων, βοηθεῖν τὰ[ς πόλεις ὡς ὀχσύ]τατα κατὰ τὰς χσυγγραφάς, α[ἱ ἐπὶ . . .] τοῦ γραμματεύοντος ἐγένον[το περὶ τῶν πόλε]ων τῶν ἐπὶ θραίκης*. This clause of Democleides' motion insures military assistance for the colonists from the other cities of Thrace. The words, *κατὰ τὰς συγγραφάς, . . . περὶ τῶν πόλεων ἐπὶ θραίκης*, seem to warrant the assumption that the commission was a political one and had as its principal duty the drafting of articles of agreement for the cities of the Athenian confederacy in Thrace. The new colony of Brea was apparently to be admitted to this group and therefore was entitled to all the rights of the league. The provision for military assistance from the other members in case of foreign aggression was only a single article of these rights.

Foucart[8] calls attention to the significance of such a commission in the relations between Athens and her subject allies. His conclusion is as follows: *Il en ressort que la condition des allies sujets d'Athènes ne résultait pas d'une convention entre les deux parties, mais d'une ordonnance (συγγραφαί) imposeé par les Athèniens.* This

[6] *C. I. A.* I 31. Dittenberger I 19. Michel, *Recueil* 72.
[7] l. 15.
[8] *Op. cit.* p. 250.

is hardly warranted by the evidence. It is true that the syngraphae would be as binding as law, and that Athens, as the capital power of the confederacy, could arbitrarily impose her authority upon the Thracian or other allied cities, but there is nothing in the inscription to justify the assumption that a syngraphae was generally used for this purpose. Apparently the only reason that a board of syngrapheis was employed for the Thracian business was because the entire matter needed thorough investigation. It is not unlikely that the syngrapheis actually made the journey to Thrace and drew up their recommendations on the basis of an autopsy. Obviously such investigation was not necessary in the case of all the allied cities.

The inscription, however, does suggest an interesting possibility regarding the manner in which the allied cities in Thrace were organized. After the Delian confederacy had virtually become an empire with Athens as the head, the various cities, according to their geographic location, were grouped into distinct units for purposes of tribute assessment and possibly also for military defense. The exact time at which this scheme of organization was perfected can not be determined. Busolt[9] observes from an examination of the tribute lists that there was a general movement in this direction a little before 454/3 and that from 446/5–444/3, there are definite indications that the system was in operation. It is significant that the activity of the Thracian syngrapheis falls precisely in this decade.[10] And this suggests the possibility that the commission may have had something to do with the organization of the Thracian unit of the Athenian empire. These syngrapheis may possibly have fixed the limits of this section and made arrangements for the regular payments of the tribute. The reference in the inscription, *περὶ τῶν πόλεων ἐπὶ θραίκης*, is to this group of cities and the article of the syngraphae stated in the words, *ἔαν δέ τις ἐπιστρατ[εύηι ἐπὶ τὴν γῆ]ν τὴν τῶν ἀποίκων, βοηθεῖν τὰ[ς πόλεις ὡς ὀχσύτατα . . .*, leads to the supposition that the commission established relations between the cities themselves as well as between them as a group and Athens as head of the empire. What other specific obligations were laid upon these cities by the syngrapheis and were outlined in the original and complete syngraphae

[9] *Gr. Gesch.* III p. 74 n. 1.

[10] The accepted date of the inscription is 446–444. The appointment of the commission is anterior to this. A lacuna in the text of the inscription makes it impossible to date the syngraphae, but apparently it did not precede Democleides' measure by a very great period of time.

can not in any way be determined from the inscription. The organization was doubtless intended mainly as a protection against aggression from tribes in the hinterland.

Another inscription,[11] cited by Foucart and dismissed with mere mention, deserves to be considered at this point in connection with the Brean decree. Most of this inscription is hopelessly mutilated, but the phrase, κατὰ τὰς συ[γγραφάς], and further down, the words, τοῖς κλη[ρούχοις], may be deciphered. Unfortunately, every clue to the historical situation is lost, but the extant portion of the inscription, taken together with Democleides' decree, seems to indicate that boards of syngrapheis were employed to establish the relation between cleruchs or colonists and Athens, their mother-city. Apparently the cleruchs of the inscription, like the Brean colonists, were effected by a syngraphae of some kind.

A very interesting parallel to this type of Athenian commission is seen in the board of Cnosian citizens referred to in Plato's *Laws*.[12] The Cretans had determined to send out a colony and had given entire charge of the matter to the Cnosians, who, in turn, delegated a commission of ten men to draft a constitution and laws for the proposed colony. Cleinias, who is himself a member of this commission, explains to the Athenian stranger that the members of the board are given wide discretionary power and are allowed to select laws from any source whatever, utilizing the Cretan laws if they are satisfactory, or adapting those of foreign cities, if they appear better. The functions of this Cnosian commission are precisely those of Athenian syngrapheis, viz. to present recommendations on the basis of a thorough investigation. It is not altogether improbable that Plato had in mind some such board as is referred to in the fragmentary inscription discussed above. This assumption has all the more weight in view of the fact that all through the *Laws* Plato adapts actual Athenian laws and institutions to the purposes of the Cretan colony.[13]

The purpose of the commission referred to in Democleides' decree is essentially political. The syngrapheis apparently would be experts, men fitted to make a careful investigation of the entire Thracian situation. The syngraphae which resulted from this

[11] *C. I. A.* I 96.

[12] 702 C.

[13] The extent to which the *Laws* reflect Athenian laws and institutions is shown by Schulte, *Plato De Publicis Ath. Inst.* (1907).

investigation was not a treaty, as Foucart points out; it was simply the report of the commission and at the time of Democleides' motion, had been ratified by the Athenian people and was being enforced in part for the benefit of the Brean colonists.

The Delian συγγραφεῖς

Reference to the work of this commission appears in an inscription[14] dealing with the Athenian administration of the Delian temple property. As in the case of the Thracian syngrapheis, the evidence is indirect and is based upon the phrase κατὰ τὰς συγγραφάς. These words of the inscription and their immediate context not only indicate the existence of the commission, but also afford some slight information regarding its general nature and duties. Foucart[15] believes that the Athenians, after obtaining control of Delos, had appointed a commission to investigate the sacred property of the island and make recommendations regarding its management. The inscription proves that the commission's report had been accepted and was being enforced.

These Delian syngrapheis may be classified with the Eleusinian commission. They did not form a distinctive political commission, but their duties, being concerned with the sacred property of the Delian temple, were primarily religious. However, as Delos was for a long time the center of the confederacy and had always been the religious center of the Ionians,[16] the work of the commission was of considerable importance from an imperial standpoint.

General Nature of the Institution

The three clearly authenticated instances of the use of syngrapheis discussed in the preceding pages are sufficient to reveal the general nature and working of this type of commission in Athenian administration and political activity. The commission principle was familiar to the Athenians early in their history, but was not shaped into an organized institution until the democracy was fully developed. By Pericles' time, commissions of all kinds were employed and the institution of syngrapheis was at the highest stage of its development and efficiency as an instrument of general political reform. To understand the real nature and purpose of this institu-

[14] *C. I. A.* I 283.
[15] *Op. cit.* p. 249.
[16] Bury, *Hist. of Greece*, p. 198.

tion and also the nature which it later assumed, it will be helpful at this point to review *ensemble* the evidence derived from the instances just considered and, on the basis of the evidence afforded by these and other instances, to reconstruct the type of commission most commonly used for dealing with large political questions.

SCOPE

The diverse duties of the boards discussed above suggest the wide application of the institution in Athenian administration. Syngrapheis, as is seen particularly in the Eleusinian decree, were employed for religious purposes. The significance of these commissions in the consolidation of the Athenian empire has already been indicated. Boards of syngrapheis also were used in connection with colonies and cleruchies. The work of these commissions would doubtless, in its general features at least, be legal and constitutional. The very diversity of the tasks assigned to these boards makes it apparent that syngrapheis were employed in all departments of public activity. In the last decade of the fifth century, the Athenians had come to regard the appointment of boards of syngrapheis as a perfectly normal way of dealing with important public questions. This attitude rendered it easy for the revolutionists to accomplish their purpose by manipulating an institution which had the sanction of democratic usage.

FUNCTION AND POWER

The function of syngrapheis was to make a thorough investigation of a certain problem and to submit recommendations regarding its solution.[17] Although such commissions were allowed unrestricted freedom in making investigations, they had no executive power whatever. The detailed report of the Eleusinian religious board shows to what extent the syngrapheis could carry their inquiry and the nature of the recommendations which they were empowered to give. The people apparently did not limit their investigative power, but sometimes suggested the nature of the reform which they wished the commission to inaugurate. For example, in 411, the syngrapheis who were entrusted with a revision of the constitution, were directed to examine the laws and constitution of Cleisthenes. And also in 404, the notorious Thirty, who, as will be shown later, constituted a board of syngrapheis, were instructed to formulate principles of

[17] Cf. Harpocration *sub. verb.* συγγραφεῖς.

government based upon the so-called πάτριος πολιτεία. In general, it may be assumed that the syngrapheis were essentially investigative commissions, charged with the task of dealing with a particular question, with or without suggestions.

The jealousy with which the Athenians regarded any encroachment upon the sovereign power of the Ecclesia naturally exerted a restraining influence upon the use of commissions. Every precaution was taken to prevent these commissions from supplanting the Assembly, even in the slightest degree, and to insure absolute control of them. This tendency is seen in the manner in which syngrapheis were appointed and in certain restrictions which were imposed upon their activity. These restrictions, however, it should be noted, were no more exacting than those to which the magistrates were subject.

MANNER OF APPOINTMENT

Lampon's amendment illustrates the preliminary steps taken by the Athenian people in the appointment of a commission. First of all, a psephism was presented to the Ecclesia recommending the election of such a board. This was the procedure followed in 411 and in 404, and also in 413, when a special administrative commission was appointed which was called πρόβουλοι, whose functions and powers were different from those of the regular syngrapheis. From Lampon's case, it might be inferred that the proposer of the psephism might make nominations and the ratification of the measure would amount to popular election. How the larger commission of the Eleusinian syngrapheis was elected can not be determined. Pythodorus, whose motion[18] prepared the way for the election of the syngrapheis in 411, did not nominate the members. This measure provided that the commission be composed of two sections, the ten Probouli, who had been elected two years before, and twenty additional members. There is no indication as to the method by which the twenty were to be appointed. It is probable, however, since the revolutionists at this time were trying to keep up constitutional appearances that the regular method would be employed, but it was undoubtedly manipulated in such a way as to serve the purpose of the oligarchs. Likewise, the decree of Dracontides[19] which authorized the election of the Thirty apparently did not nominate the

[18] Aristot. *Const. of Athens.* XXIX 2.

[19] Xenophon, *Hellen.* II iii 2, appears to quote part of this decree. The list of the Thirty which is subjoined probably was not part of the original motion.

members of the commission. Of the thirty members who comprised this commission, as may be inferred from Lysias' statement,[20] twenty were nominated by psephismata and were elected in the manner suggested by Lampon's amendment to the Eleusinian decree. Lysias asserts that Theramenes named ten of the Thirty and compelled the people to elect them and that the "ephors"[21] did the same. The remaining ten, he says, were nominated by the general assembly. Lysias intimates that this method was part of the oligarchic παρασκευή but whether the underlying principle was irregular or unconstitutional, can not be determined. The most ostensible feature of the παρασκευή, according to Lysias' account, was the compulsion under which the people were placed to vote for oligarchic nominees. The form of expression used in the decree of Pythodorus and in other references[22] to the election of political commissions suggests no distinctive method of appointment. Commissions for the superintendence of public works and similar offices at Athens were not elected by lot.[23] It stands to reason that in all offices requiring expert ability the lot could not be used. The same principle undoubtedly applies to political commissions. Clearly such a commission as the Thracian syngrapheis could not be chosen indiscriminately from the entire citizen-body. The ten Probouli in 413 most assuredly were not elected by lot. In 411, a system of election by lot for the twenty additional members of the commission would have defeated the purpose for which the oligarchs intended to use the commission. So lot as a method of electing political commissions may be disposed of without further comment. Commissions for political uses, it seems, were elected in the Ecclesia by χειροτονία.[24] The nominations were doubtless made in the same way as for other elective offices.[25] The Ten who assumed control of Athens after the downfall of the Thirty were named by the tribes.[26] It is supposed that in the board

[20] XII 76.

[21] A central committee of five members appointed by the oligarchic clubs. Cf. Calhoun, *Athenian Clubs in Politics and Litigation* (Chicago dissertation 1913), p. 112.

[22] For example, Thucyd. VIII 67, 1 and Xen. *Hellen.* II iii 2.

[23] Headlan, *Election by Lot*, p. 106 ff.

[24] Lysias XII 76.

[25] For the method employed for elected magistrates, see Gilbert, *Griech. Staatsalt.* I 241.

[26] Xen. *Hellen.* II iv 23.

of Probouli one member came from each tribe.[27] But whether the tribes played any part in the regular system of nomination for commissions or not, can not be determined.

Period of Activity

Another device by which the Athenians endeavored to prevent the use of syngrapheis becoming a menace to democracy was by limiting their period of activity. Lampon was to serve as syngrapheus only for a limited time. His syngraphae was to be in the hands of the Senate by the ninth prytany. Likewise, the syngrapheis of 411, according to Thucydides,[28] were required to present their report at a specified time. The Thirty also, as may be inferred from Xenophon's account,[29] were expected to be ready with proposals regarding changes in the constitution at a given day, but failed to report and continually postponed the business for which they were appointed. Lysias[30] declares that Nichomachus, who belonged to a commission of ἀναγραφεῖς, deliberately prolonged the term of his office beyond its appointed limits. As will be shown later, there is reason for believing that Nichomachus secured an extension of the time originally allotted for the completion of his task. Under special circumstances, political commissions were appointed for an indefinite period of time. The Probouli were to serve throughout the duration of the Peloponnesian War. It may be concluded, however, that as a rule an effort was made to predetermine the length of time necessary for the completion of the work assigned the commission and this limitation was set forth definitely in the psephism which provided for the election of the commission. The commission's activity ceased automatically as soon as its report was presented to the people, and was either ratified or rejected.

εὔθυναι

The rule strictly enforced by the Athenian people requiring every magistrate to render an account of his official proceedings to the Senate every prytany and at the end of his term was apparently modified in its application to commissions. In the case against Nicomachus, the plaintiff accused his opponent of having failed

[27] Bekker, *Anec.* p. 298.
[28] VIII 67.1.
[29] *Hellen.* II.
[30] XXX 2.

to render account of his office as anagrapheus.[31] He declares that other officials are required to report each prytany, but that Nicomachus had ignored the regulation entirely and had given no account for four years. The exact details of Nichomachus' office must be passed over for the present, but this passage may be cited here as showing that some kind of accounting could be required of commissions. Unfortunately, the best attested instances of euthynae in the case of political commissions do not afford the proper evidence for broad generalizations. The Thirty and the Ten were required to submit to the processes of euthynae before they were entitled to the rights of the amnesty. It is clear, however, that the euthynae did not apply to the Thirty and the Ten as commissioners, but as officials. The Thirty were held to account not as syngrapheis, but as tyrants who usurped the functions of the government. The same charge was brought against the Ten who followed the Thirty as a general administrative commission. There is no evidence to show that boards such as the Eleusinian syngrapheis were required to present a report at stated intervals. Offices of this nature were not of uniform tenure. Apparently no formal report was necessary until the commission presented its syngraphae. The presentation of the syngraphae and all the procedure connected with it served the purpose of the euthynae. This does not imply that political commissions were not accountable during and after the period of their activity. Any Athenian official by the simple process of ἐπιχειροτονία could be called to account at any time during his term and could be removed from office if convicted of malfeasance or incompetence.[32] Political commissions, whether of syngrapheis or of any other type, were liable to such action as this. The exact nature of the accounting would vary with the character of the commission. The matter of the euthynae, then, must be resumed in the detailed discussion of individual commissions. For present purposes, however, it is enough to note that political commissions were held just as strictly to account as magistrates, although the method was, in all probability, not the same.

συγγραφαί

The two distinctive features of commissions of syngrapheis were, as has already been stated, first, to make investigations, second, to present a report embodying the results of this investigation. The

[31] Lysias XXX 4 and 5.

[32] Gilbert, *Griech. Staatsalt.* I 248.

investigative power of these commissions and the manner of directing and regulating it has been discussed. It now remains to consider the second function of the syngrapheis, that concerned with the presentation of their report, or *συγγραφαί*, as it was technically called.

The Eleusinian inscription amply illustrates all the processes involved in the presentation of the syngraphae and shows, too, the real nature of such a body of recommendations and the importance which the Athenians attached to it. From Lampon's amendment, it is apparent that the syngraphae had, first of all, to go through the hands of the Senate. The last line of the amendment is especially significant: *ἡ δὲ βουλὴ ἐς τὸν δῆμον ἐχσενεγκέτω ἐπάναγκες*. This shows that a commission's syngraphae, unlike a regular psephism, was not subject to veto at the hands of the Senate, but had to be offered to the Assembly, whatever the verdict of the Senate regarding it might be. The only object in allowing the Senate to handle it at all, apparently, was to conform to the constitutional usage whereby all business for the Ecclesia passed through the channel of the prytanies and the Senate. The Senate's approval or disapproval would, of course, have some moral weight, but was immaterial as far as the presentation of the syngraphae was concerned. This provision was no derogation of the Senate's probouleutic power, because, like other items of business, the syngraphae doubtless required a nominal probouleuma from the Senate.[33] It did, however, lend special distinction to the syngraphae and raised it above the ordinary psephism in that it obviated delay and further investigation which would necessarily arise from adverse action on the part of the Senate.

Commissions of all kinds were directly responsible to the people. Hence the report of the syngrapheis was subject to the approval of the Ecclesia. The speaker against Nicomachus makes a special point of the fact that the syngraphae was voted upon by the people.[34] It has already been shown that the syngraphae might be revised or amended.[35] The measure which authorized the election of the syngrapheis in 411 contains a special provision allowing any citizen who wished to make suggestions supplementing the report of the

[33] For ordinary business the Senate's probouleuma did not necessarily imply approval, but was simply the medium of bringing it before the Ecclesia. Cf. Gilbert, *Griech. Staatsalt.* I 327.

[34] Lysias XXX 17, *ταῦτα γὰρ ὑμεῖς ἐψηφίσασθε*.

[35] p. 18.

commission.[36] It will be shown in a later chapter to what advantage the oligarchs used this special provision, as well as the general practice of allowing amendments to syngraphae. The syngraphae, like an ordinary psephism, could be rejected entirely.

The syngraphae, it is clear, embodies the constructive work of the commission. These recommendations, after having been ratified by the people, assumed the force of law. Lampon's amendment provides that the syngraphae of the Eleusinian commission be inscribed upon stelae and published as the laws were. The decree of Demophantus, which is a syngraphae, is spoken of by Andocides as a *νόμος*.[37] Even if this measure is based on an earlier law[38] and is characterized as *νόμος* or *νόμος Σόλωνος* by virtue of this fact, the force of the syngraphae as law is not thereby invalidated. The syngraphae referred to by the speaker against Nicomachus, without doubt, had displaced some ancient law and had been enforced in its stead until the revision of the laws in 403 .[39] Foucart[40] characterizes syngraphae as belonging to a special class of legislative measures, distinct from the ordinary psephismata, occupying a middle ground between psephismata and *νόμοι*. This simply means that the result is secured in a different way. It is a difference in procedure, not in effect.

The distinctive character of the syngraphae might perhaps convey the impression that boards of syngrapheis were appointed solely for legislative purposes. This view in fact has been adopted by a number of scholars.[41] It is clear that such a theory rests upon a misconception of the general nature of syngrapheis as an institution. It results from an over emphasis on one phase only of their activity. As will be shown later, boards of syngrapheis were appointed with specific legislative duties, but these instances simply illustrate the versatile character of the institution as a whole. The fact that such commissions had no more power than to make recommendations is not enough to warrant the view that they existed solely for purposes of nomothesia. It is true that the syngrapheis played an important part in the legislative system of the fifth century,[42] but this was not their entire rôle. The essential purpose of commissions of syn-

[36] Aristot. *Const. of Ath.* XXIX 3.

[37] I 96.

[38] See Schreiner, *De Corpore Juris Ath.* (Bonn 1913) p. 64 ff.

[39] Lysias XXX 17 and 21.

[40] *Op. cit.* 248.

[41] See p. 71 where this theory is discussed more at length.

[42] Schreiner, *op. cit.*, p. 13 ff.

grapheis, as already indicated, was to make investigations. The outcome of these investigations resulted in syngraphae which, after going through the necessary processes, virtually became laws. The nomothetae of the fourth century had final authority.[43] In this respect, the functions of the syngrapheis are different, but nevertheless the use of these commissions afforded one means of securing results that were in effect laws. This, however, does not justify calling the syngrapheis legislative commissions. The specific designation of the commission, legislative, constitutional, religious, financial, or what not, depends upon the nature of the investigation which it is called upon to make. No single term seems to characterize appropriately the general functions of the syngrapheis, which includes investigation and recommendation.

Summary

Before passing on to a detailed study of the work of political commissions, it may be helpful at this point to recapitulate the essential facts which have been brought to light in the preceding discussion. The commission principle was always a part of the Athenian system of government, but acquired more extensive application as democracy developed. In the early part of the fifth century, a type of commission came into existence to which the name of syngrapheis was applied. The peculiar functions of the syngrapheis were, first, to make investigations, second, to present recommendations based upon the results of these investigations. These recommendations (*συγγραφαί*), after passing through the necessary processes, assumed the force of law. In this way, the institution of syngrapheis became a part of the Athenian nomothetic system of the fifth century. It had, however, a wider application and was used as a means of securing reforms of all kinds based upon a careful investigation.

Such an institution, it is apparent, was admirably suited for purposes of political reform. Instances of its normal and legitimate use for this purpose have already been pointed out. It remained for the shrewd revolutionary leaders in 411 and 404 to see the full possibilities of the institution and to use it so effectively that in later times the very name syngrapheis became almost synonymous with oligarch.

[43] Gilbert, *Griech. Staatsalt.* I. 337.

CHAPTER III

THE COMMISSION OF THE πρόβουλοι 413 B. C.

The desperate situation in which the Athenians found themselves after the Sicilian disaster justified, even in the minds of the most radical democrats, a modification in the administration of the government. The decimated army and navy, the depleted treasury, and the exhausted resources of the state generally seemed convincing evidence of the inefficiency of an absolutely democratic *régime*. The criticism of Thucydides[1] that the people were themselves responsible, was in the end universally acknowledged when the citizens, after their first indignant outburst against the orators, gave way to despair and finally to passive submission.[2] Under these circumstances, the people were in a receptive frame of mind to adopt any measure that seemed to promise the recovery of their losses, or even the conservation of their present scanty resources, or that seemed to offer any way of escape from apparently inevitable destruction at the hands of their triumphant foes. It was in hope of this that the commission of the Probouli was elected in 413 B.C.

Thucydides' account of the election of this board is very meager and he never refers specifically to it again. But all the vivid narrative of the earlier part of Book VIII serves as a background for the appearance of the Probouli. In the opinion of the Athenian people, they were the ones to remedy the situation.

From other sources, we are able to verify some of the main points of Thucydides' scanty account and to supplement it with details that were passed over by the historian as unessential for his narrative. From Aristotle,[3] we learn that the commissioners were called πρόβουλοι, that there ten of them,[4] possibly one from each tribe,[5] and that their minimum age was forty years.[6]

[1] VIII 1. 1.

[2] VIII 1. 4.

[3] *Constit. of Athens*, XXIX 2.

[4] See also Diodorus XII 75. 4.

[5] Bekker, *Anec.* p. 298 *s. v.* πρόβουλοι.

[6] Foucart, *Le Poete Sophocles et L'Oligarchie des Quatre Cents*, *Rev. Phil.* XVII (1893) p. 4, thinks that the Probouli had passed the age of military service and were about sixty years old.

The names of only two of the Probouli are preserved, Hagnon, the adoptive father of Theramenes,[7] and a certain Sophocles.[8] The Hagnon mentioned in Lysias as one of the Probouli has been identified as the son of Nicias, and was a man of wide military and political experience. He is mentioned in Plutarch's *Life of Pericles*[9] as having introduced an amendment to a bill proposed by Dracontides directed against Pericles. He had served in the Samian War;[10] he had led a colony to Amphipolis;[11] and was one of the Athenian statesmen who, under oath, ratified a treaty with Sparta for one year in 423.[12] He was so prominent that his influence added prestige to his son, Theramenes.[13]

The other member of this commission whose name is known can not be so definitely identified. The choice seems to lie between Sophocles, the poet, and Sophocles, the general and statesman, and the evidence seems equally strong in either case.[14] The literary reputation of the poet and the universal esteem in which he was held, together with his honorable, if not distinctive, service as colleague of Pericles in 440 and later with Nicias, and as Hellenotamias in 443, are balanced against the wider military experience of Sophocles, the colleague of Eurydemon in the first Sicilian expedition, and his later connection with the Thirty. The statement of Ion, a contemporary of the poet, *τὰ μέντοι πολιτικὰ οὔτε σοφὸς οὔτε ῥεκτήριος ἦν, ἀλλ' ὡς ἄν τις τῶν χρηστῶν Ἀθηναίων*, is cited to support both theories. Despite the apparently disparaging tone of Ion's statement, the words, *τις τῶν χρηστῶν Ἀθηναίων*, imply, Foucart thinks, the very qualities requisite for a Proboulus and make it seem likely that the poet would not be averse to serving in that capacity.[15]

The reference in various authors to the existence of an office of the same name in other states throws little light on the character of

[7] Lysias XII 65.

[8] Aristot. *Rhet.* III 18 p. 1419a.

[9] 32. 2.

[10] Thucyd. I 117. 2 and II 58. 1.

[11] Thucyd. IV 102. 3 and V 11. 1.

[12] Thucyd. V 19.2 and 24.1.

[13] Xen. *Hellen.* II iii 30.

[14] See Foucart, *Rev. Phil.* XVII (1893) p. 2. Wattenbach, *De Quadringentorum Athenis Factione* (Berlin 1842) p. 22. Cope, Notes on Aristot. *Rhet.* I 14.3 and III 18.6. Gilbert, *Beiträge zur Innern Gesch.* p. 292 ff. Van Leeuwen, *Mnemos.* XX (1892) p. 221 ff.

[15] *Rev. Phil.* XVII (1893) p. 2.

this Athenian commission.[16] Herodotus[17] applies the name *πρόβουλοι* to a commission of Ionians who assembled at Panionium and designates the deputies appointed by the western Greeks to consult on the manner of meeting Xerxes as *πρόβουλοι τῆς Ἑλλάδος*.[18] Plutarch[19] uses the word in conjunction with *θεοροί* regarding the Hellenic representatives who were to meet at Plataea each year in commemoration of the battle. In all these passages there is no indication of the functions of these Hellenic Probouli, but judging from the circumstances under which they were appointed, and from the nature of their mission, we may assume that their duties were similar to those of an ambassador, and that they were subject to the same regulations.

That the office of Proboulus did exist as a regular magistracy outside of Athens is evident from a passage in Aristophanes' *Acharnians*[20] where the Megarian speaks of the counselors of his native state as *ἄνδρες πρόβουλοι*. As Schoell[21] suggests, it was doubtless a Dorian institution and was found especially in Dorian states.

The phrase, *δήμου προβούλοις*, in Aeschylus' *Seven against Thebes*,[22] is usually considered an anachronism.[23] But it is likely, as some editors suggest, that the Theban Probouli were serving as a board of regents until the new ruler should be proclaimed to succeed Eteocles. They may have been the regular counselors of the king. They are later referred to as *τέλος* (v. 1030) and *προστάται* (v. 1031).

It was doubtless such a government as that of Megara that Aristotle had in mind in his general definitions of *πρόβουλοι*.[24] He makes a distinction between three kinds of government, first, that administered by *νομοφύλακες*, which is autocratic, second, that ad-

[16] Wattenbach, *op. cit.*, p. 15 endeavors to trace the entire history of the word.

[17] Herod. VI 7.

[18] Herod. VII 172. 1.

[19] Plutarch, *Vit. Aristid.* 21. 1.

[20] v. 755.

[21] *De Extraordinariis Magistratibus Ath. Comm. in Honorem Mommseni*, p. 452 and 454.

[22] v. 1011, Oxford Edition.

[23] Wilamowitz, *Aischylos Interpretationen*, p. 88–95, holds the view that the last act of the *Septem* in which is included this reference to the Theban Probouli is spurious and shows the influence of Sophocles' Antigone. This theory is based entirely upon considerations of style and plot-structure and can not be established with absolute certainty. In any event, the passage throws no light on the nature of the Athenian Probouli of 413.

[24] *Pol.* VI 5. 10 p. 1322 b. and IV 11. 9 p. 1298 b.

ministered by πρόβουλοι, which is oligarchic, third, that administered by a βουλή, which is democratic. He adds that a government administered by both πρόβουλοι and a βουλή is more oligarchic than democratic, because the πρόβουλοι take precedence over the βουλή.[25] Grote thinks that none of these passages authorizes any inference with respect to the Probouli in the case of Athens.[26] The fact, however, that the Boeotian four-senate system served as a model for the definitive constitution[27] proposed by the moderates at the end of 411[28] gives a measure of plausibility to the view that the office of Probouli was adapted from some of the Boeotian states. It is not unlikely that the moderates who, as will be shown later, were responsible for the establishment of the Probouli and the proposal of the four-senate system in 411, looked to the Boeotian states for some of their political ideals.[29]

In Aristophanes' *Lysistrata*, produced at the Lenaia of 411, a Proboulus is represented in an official capacity. Although Grote deprecates the use of Aristophanes as an authority for the functions of the Probouli, the fact that the play is a contemporary piece of literature and that, in certain details, it agrees with Thucydides' account, seems to warrant giving it some consideration.

The Proboulus of the play is represented in the normal performance of his duty. He is on the way to the Acropolis to obtain funds for the purchase of oar blades, and finds the sacred precinct in the possession of the women, who, under the leadership of Lysistrata, have determined to compel the men to bring the War to a close. As the Proboulus approaches and observes the struggle which is taking place between the women and the chorus of old men, he remarks upon the wantonness of the women and regards their present outbreak as the culmination of a long series of outrages. The Proboulus is clearly ignorant of the women's plot[30] and apparently has no other interest in the situation than to obtain the funds for which he

[25] *Pol.* VI 5. 13. p. 1323a and IV 12. 8 p. 1299b.

[26] *Hist. of Greece*, VII p. 363.

[27] Koehler, *Sitzungsberichte der Kg. Akad. der Wissenschaften* (1895) p. 445 ff.

[28] The theory referred to here that this constitution belongs to the time after the overthrow of the Four Hundred and was proposed by the moderates is discussed in more detail in Chapter VI.

[29] Cf. the view of Socrates in Plato's *Crito* 53 B that Megara and Thebes were well-governed cities.

[30] vs. 487 and 1008.

has come to the Acropolis. Finding himself debarred from the treasury, he assumes command of the attacking party, not because such service was a part of his regular duty, but because he was the only official on the scene. There is nothing in the attitude of the Proboulus as represented by Aristophanes to indicate that this official was in any way serving in the capacity of police.[31] The toxotae who are in attendance upon the Proboulus doubtless constituted an honorary body-guard such as accompanied the Prytanies and the Senators. In the *Thesmophoriazusai*,[32] where police service is required, Aristophanes rightly introduces one of the Prytanies.

Aristophanes' representation of the functions and character of the Probouli in many points agrees with the facts as stated by Thucydides. The Proboulus of the play represents the entire commission and what is said of him applies to the body as a whole.[33] Thucydides characterizes the commission as *ἀρχήν τινα πρεσβυτέρων ἀνδρῶν*, and the Proboulus of the play is represented as well advanced in life. His extreme old age is made a special object of ridicule by Lysistrata and the chorus of women.[34]

It may be inferred from Thucydides VIII 1. 3 that the Probouli were to have charge of the emergency measures which were inaugurated by the Athenians after the Sicilian disaster. The Assembly which elected the commission offered it a tentative program, the three most definite items of which were, first, to rebuild the fleet, second, to establish trustworthy relations with the allies, especially with Euboea, and third, to economize in the expenditure of state funds. The statements of the Proboulus in the *Lysistrata* make it clear that the commission had carried out part of this program at least.[35] The most desperate need of the Athenians at that time was a new fleet and their determined resolve was to secure it, obtaining the timber from any available source.[36] The Proboulus of the play announces that he has purchased new oar blades and needs the money to pay for them. Undoubtedly one of the most important functions of the commission was to administer the state funds.[37] And this is

[31] Gilbert, *Beiträge*, p. 294, holds the opposite view.

[32] v. 929.

[33] This is clear from v. 609 where the Proboulus refers to his colleagues.

[34] v. 599 ff.

[35] v. 420 ff.

[36] Thucydides VIII 1. 3.

[37] Schoell, *Ex. Mag.* p. 454 believes that another office called *πορισταί* was instituted at this time with purely financial functions to assist the Probouli. A

the function especially emphasized by Aristophanes. When the Proboulus inquires into the purpose of the women in capturing the Acropolis, he is informed by Lysistrata that they intend to take over the funds of the city and thus prevent the continuance of the War. This answer is clearly designed to tantalize the Proboulus. For the usurpation of the public funds was not part of the women's original plan of campaign as outlined by Lysistrata at the beginning of the play. They were to capture the Acropolis and hold it as a military base as revolutionists in previous times had done.[38] At the same time, the appearance of the Proboulus and his anxiety to enter the treasury may have suggested to Lysistrata a more effective way of conducting the campaign. So, in reply to the old man's inquiry as to what the women's purpose is, she announces, "in order that we may keep the money safe and prevent you from carrying on the War with it," thus expressing an impromptu design on her part.[39]

The points wherein Aristophanes' representation agrees with Thucydides' account seem absolutely trustworthy. There are in addition various bits of less tangible evidence afforded by the play which seem to give indications of the functions of this commission. Thucydides sums up the powers of the Probouli in the words, *ὡς ἂν καιρὸς ᾖ προβουλεύσουσιν*. These words are generally taken to mean that the Probouli had power to prepare legislation.[40] They therefore assumed some of the functions of the Boulê or acted in conjunction with it in proposing probouleumata for the Ecclesia. The work of administering the public finance and of superintending the building of fleets constitutionally belonged to the Senate. In these particulars Aristophanes and Thucydides are in agreement. But certain features of Aristophanes' representation of the Proboulus give the impression that the commission had taken over other functions of the Senate than those clearly indicated by Thucydides. In the play the Proboulus receives the Spartan herald and orders him to advise the

similar view is held by Beloch, *Rhein. Mus.* XXXIX (1884) p. 249–259. This theory is based almost entirely on the reference to the poristae in Antiphon's speech on the *Choreutes* 49. The date of this speech, according to Schoell and Sauppe, is 412–11. Keil, *Hermes* XXIX (1894) p. 32 and 337 ff. attempts to establish the correct chronology of the speech. He believes that the date of the speech is 425 and that the poristae belonged to this time. If the office did exist in 413, it was surely subsidiary to that of the Probouli.

[38] For example, Peisistratus and Cylon.

[39] v. 488.

[40] Foucart, *Rev. Phil.* XVII (1893) p. 8.

Spartans to send plenipotentiary ambassadors to make peace negotiations. In doing this, the Proboulus assumes one of the functions of the Prytanies. His parting words as he leaves the stage for the last time, "I shall advise the Senate to select other ambassadors,"[41] imply, as Wilamowitz thinks, that the commission had authority to advise the Senate to introduce a new item of business into the day's program and to assemble the people; for the election of ambassadors was a matter for the consideration of the assembly.[42] As the Proboulus leaves the stage for the first time,[43] he makes an indignant protest against the treatment that has been accorded him and threatens to report the matter to his colleagues. The implication of his words is that the Probouli will effect the punishment of the women in some way. The conduct of the women and their abusive treatment of the Proboulus could be dealt with only by an action of εἰσαγγελία before the Senate. Though we can not infer that such cases were referred to the Probouli, it seems entirely reasonable to suppose that the commission had some influence, at least, upon the administration of justice.

The inference that the Probouli assumed some of the most important functions of the Senate is sometimes drawn from a disputed passage in the *Thesmophoriazusae*, a play produced, as is generally conceded, at the City Dionysia, a few weeks after the presentation of the *Lysistrata*.[44] The words of the chorus:

> ἀλλ' Εὐβούλης τῶν περυσίν τις βουλευτής
> ἐστιν ἀμείνων
> παραδοὺς ἑτέρῳ τὴν βουλείαν ;[45]

are usually considered an allusion to the relatively subordinate position of the Senate after the inauguration of the Probouli. But the reference is too vague to serve as the basis of any theory.[46] From the fact that one of the Prytanies appears in the play, it may be assumed that the Probouli did not entirely supersede the Senate.

From the scanty evidence available regarding the functions of the Probouli, it may be concluded that the commission acted mainly

[41] v. 1011 ff.

[42] *Aristot. und Ath.* II p. 345.

[43] v. 609.

[44] Cf. Wilamowitz, *Die Zeit der Thesmophoriazusen*, *Aristot. und Ath.* III p. 343 ff.

[45] v. 808.

[46] Cf. Schol. τὸ ὅλον τί βούλεται οὐκ ἔστιν σαφές.

as a steering-committee for both the Assembly and the Senate. It it clear from Thucydides' account in Book VIII that all the machinery of democracy remained intact and that the administrative functions of the Senate and Prytanies still continued. The commission, doubtless endowed with veto as well as with initiative power, served as a check upon the actions both of the Ecclesia and the Senate.[47] Its influence would be felt in every department of the government. The fact that the board was elected by ballot and that it comprised men of ripe experience and eminent respectability would give it a distinction above the general citizen-body. Its counsels would be listened to respectfully.

The legislation that restored safety to the city and gave Athens confidence to face her foes again must be attributed to the Probouli for the most part. Thucydides VIII 4 may be considered a summary of the activities of the Probouli immediately after their appointment. They rebuilt the fleet, fortified Sunium, and thus provided a safe transit for Athenian grain ships; they took steps to prevent a revolt of the allies; and curtailed public expenses as far as possible. We might, perhaps, take as a typical piece of legislation of the Probouli the measures introduced after the revolt of the islands. At that time, a proposition was made, first, to repeal the law forbidding the use of the reserve fund which Pericles had deposited in the sacred treasury, second, to appropriate this fund for their present emergencies.[48]

The fact that the Probouli were later included in the thirty syngrapheis indicates that they were from the very beginning considered as a commission and not an extraordinary magistracy. The general circumstances of their election also point to the same conclusion. Boards of syngrapheis were as a rule appointed for a definite period of time, but could secure an extension of this time and remain in office until the particular task for which they were appointed was completed.[49] They were, therefore, not subject to reëlection at the end of the official year, but might be deposed by the people at any time for malfeasance in office or inefficiency. The original body of the Probouli doubtless continued in office from the time of their appointment in October 413 to the spring of 411.

[47] Whibley, *Political Parties in Athens*, p. 16 n. 1, believes that the Probouli had veto power.

[48] Thucyd. VIII 15. 1.

[49] See p. 27.

Thucydides calls the commission an ἀρχή, but no inference can be made as to whether it, like other ἀρχαί, was subject to the εὔθυνα or λόγος.[50] It seems reasonable to suppose that the Probouli, as an important financial board, would be held to account for the funds which they themselves handled or authorized to be handled.[51]

From the suggestions that have been made thus far regarding the character and functions of the Probouli, it will be evident that it was an office that might serve as an easy and apparently legitimate means of transition from democracy to oligarchy. The appointment of such a commission was not, however, a deliberate blow against democracy on the part of the Athenian oligarchs, as Busolt suggests.[52] At the beginning of their career, the Probouli manifested no oligarchic tendencies whatever.[53] In fact, some of the legislation passed by the Assembly, doubtless at the suggestion of the Probouli, was decidedly anti-oligarchic.[54] The Probouli were not the creatures of the oligarchic party, but represented the moderates, that political element which, after the Sicilian disaster, began to assert itself as a definite political party and assumed a middle ground between the extreme oligarchs and the radical democrats. Commissions of various sorts were a regular feature of the democratic *régime*[55] and there was nothing that savored of oligarchy in the appointment of the Probouli.

The oligarchs, however, were not slow to perceive the possibilities of the situation. They saw that their own political ends would be virtually realized if they could usurp the power of the Probouli, or could undermine the democratic faith of the commission. This they set about to do, and the passages in Lysias and Aristotle[56] which

[50] As Schoemann, *Griech. Alter.* p. 431, suggests, the term ἀρχή applied to a public office is not an infallible criterion of its status.

[51] For the εὔθυναι of political commissions in general, see p. 27.

[52] *Pelop. Krieg*, p. 1410. See also Koehler, *Ber. Akad.* 1910 p. 808, who believes that with the establishment of the Probouli the revolution of 411 first began. Foucart, *Rev. Phil.* XVII (1893), p. 1 ff. agrees with Busolt. For the opposite view, see Ballet, *Le Musée Belge*, II (1896) p. 26 ff.

[53] Wattenbach, *op. cit.* p. 22.

[54] Thucyd. VIII 21.

[55] Busolt, *Pelop. Krieg*, III p. 1478. Foucart, *Bullet. de Corr. Hellen.* IV (1880) p. 252. Diodorus XII 75. 4 mentions the appointment of a commission of ten in 421. Clarisse, *Ad Thucyd. Belli Pel. Epocham* p. 64, thinks that Diodorus has in mind the Probouli, but erroneously refers them to 421.

[56] Lysias XII 65. Aristot. *Rhet.* III 18 p. 1419a.

refer to the Probouli clearly indicate how successful they were eventually. The commission was utterly demoralized, some members, such as Hagnon, yielding easily to oligarchic persuasion, others, such as Sophocles, maintained a steadfast faith in democracy to the end. It required the persuasive art of Peisander to complete the process of demoralization, and the same reasoning that won over the Assembly, wavering between doubt and fear, prevailed against that element of the commission represented by Sophocles.[57]

It was at this time that the democracy began to be overcome, and from that time on, the government was virtually oligarchic, as Thucydides clearly indicates.[58] At the same time a pretense of democracy was kept up; the people and the Senate continued to assemble; and the Probouli, it must be assumed, still existed as their steering-committee. Their proposals were now dictated by the oligarchs and were supported in the Assembly by oligarchic speakers.[59]

These pre-revolutionary schemes were consummated when the Probouli were joined with the syngrapheis to constitute a commission to revise the entire administration of the state. The real purpose of this union and the exact rôle of the Probouli as designed by the revolutionists will appear more clearly in the following chapter.

[57] Thucyd. VIII 53.
[58] VIII 63. 3.
[59] Thucyd. VIII 66. 1 and 2.

CHAPTER IV

THE THIRTY συγγραφεῖς OF 411 B. C.

Some time before the *coup d'état* by which the Four Hundred established themselves in the Athenian Bouleuterion, the oligarchs were virtually masters of Athens.[1] After the seeds of the revolution had begun to germinate at Samos, Peisander, Thucydides relates,[2] proceeded to Athens and laid before the Assembly his scheme for securing Persian aid. And before the adjournment of that meeting, the oligarchic movement was well under way. But before Peisander appeared in the Assembly on that occasion, he must have interviewed the Senate, perhaps both collectively and individually. It is extremely likely that he approached the Probouli first and presented his case so plausibly that even Sophocles[3] was convinced that there was no other alternative than to sacrifice democracy in the hope of winning the support of Tissaphernes and the King through the agency of Alcibiades. The people, however, were not easily convinced, and at first expressed indignant resentment at the mere suggestion of oligarchy. These objections Peisander overcame by forcing his adversaries, one by one, to admit that Athens' only hope rested upon the possibility of securing Persian aid. This, he maintained, could be obtained only by submitting to a change of government. The adoption of an oligarchic form of government would be a pledge of good faith to the King, and, after all, would not entail great sacrifice upon the Athenians, for they would have opportunity later to restore the democracy if the new system proved unsatisfactory. There seemed to be but one alternative, and the people, wavering between hope and fear, yielded, like the Probouli, to the arguments of Peisander. An embassy of ten men, in addition to Peisander, was appointed to negotiate with Tissaphernes and Alcibiades.

Peisander, before his departure, took precautions that the oligarchic movement at Athens should suffer no relapse during his absence. He organized and set in motion all the political forces represented by the Athenian clubs and urged upon them the necessity of concerted action against democracy. These clubs, doubtless at the instigation of Peisander, instituted a reign of terror that thoroughly

[1] Thucyd. VIII 63. 3.
[2] VIII 53.
[3] Aristot. *Rhet.* III 18, p. 1419a.

intimidated the people and hushed every dissentient voice in the Ecclesia.[4] The Senate still continued to exercise its deliberative functions, but every probouleuma was dictated by the oligarchs; the Assembly continued to meet and kept up the pretense of legislating for the welfare of the state; oligarchic speakers prevailed in every debate. With the Probouli, the Senate, and the Ecclesia under oligarchic control, the revolutionists had all but accomplished their purpose. The spirit of democracy was extinguished, but all the machinery still remained intact. To bring their plans to full consummation, the oligarchs had to subvert the forms as well as the spirit of democracy.

At this juncture, Peisander returned to Athens. His mission to Alcibiades and Tissaphernes had been of no avail. Alcibiades, with characteristic faithlessness and irresponsibility, at the last moment had failed the oligarchs. Peisander and his followers at Samos determined to carry the project through to some sort of conclusion on their own initiative and with their own resources.

The real promoter of the oligarchic movement at Athens, however, was Antiphon, not Peisander. Of all the various contributory forces that brought the revolution to a climax, the most important were: the terrorizing influence exercised by the clubs, the oratorical and persuasive power of Peisander, and, most especially, the legal acumen of Antiphon, the shrewd, practical lawyer and politician. Thucydides[5] makes it clear that Antiphon had been busy some time before Peisander's second arrival. Antiphon, whose main interest lay along constitutional and legal lines, had doubtless outlined, almost to the last detail the form of government which the oligarchs were to introduce. So Peisander's main duty when he returned was to see that this program was presented to the Ecclesia and carried through in some sort of legal form. The reign of terror organized by the club-men had gone far enough and could in the end achieve no abiding result. Ultimate success in the struggle, as Antiphon and Peisander evidently believed, depended upon the diplomatic manipulation of legal and constitutional processes. The people themselves must be inveigled into voting away their own political freedom.

Peisander's first move was to assemble the people ostensibly for the purpose of presenting the embassy's report regarding the negotiations with Alcibiades and Tissaphernes. Thucydides has

[4] Thucyd. VIII 66. 1.
[5] VIII 68. 1.

nothing to say about this embassy after its arrival at Samos from Asia Minor except that five of the original ten members returned to Athens with Peisander after a tour around the Aegean in the interests of the revolutionists. This embassy must have made formal report to the people and doubtless kept up the pretense of being able to secure Persian aid, even without the assistance of Alcibiades. The fact that Alcibiades had abandoned the project would be highly satisfactory to many of the Athenians and would induce them to give a more ready hearing to Peisander. Peisander evidently resumed the discussion at the point at which he had broken off on the occasion of his last appearance before the Assembly and this time succeeded in persuading the people to take a definite step toward constitutional reform. A motion was introduced to the effect that a board of syngrapheis be appointed to make investigations regarding the change in the government and to make appropriate recommendations to the Assembly.[6]

The man who made the motion, according to Aristotle, was Pythodorus of the deme of Anaphlystus, whose identity otherwise can not be determined with certainty,[7] but who was, without doubt, one of Peisander's five associates who are mentioned by Thucydides as being responsible for the measure. The speaker who supported the motion in the assembly was Melobius, who later gained notoriety as a member of the Thirty.[8] Aside from the circumstance that

[6] Caspari, *Journal of Hellenic Studies* XXXIII (1913) p. 2, believes that the syngrapheis were appointed earlier. He takes Aristotle XXIX 1 to mean that the commission was established at the time of Peisander's first visit. The words of Aristotle, however, seem to offer no valid reason for discrediting Thucydides' statement or for assuming any inconsistency in the two accounts. Aristotle in the briefest kind of a statement in which all chronological perspective is lost, disposes of all the events preliminary to the establishment of the Four Hundred. Thucydides, on the other hand, through a succession of chapters, reveals the climactic development of the revolution. Other objections to Caspari's view will appear in the following pages and will be referred to in the proper place.

[7] Micheli, *Rev. Oligarch. a Ath.* p. 69 n. 5, identifies this Pythodorus with the choregus who served in the archonship of Chabrias 415–414 and with the hipparch mentioned in the inscription published by Brueckner, *Mitth. d. Arch. Inst. in Ath.* XIV (1889) p. 398 ff. Sandys, note Aristot. *Constit. of Ath.* XXIX 1, thinks it likely that the Pythodorus mentioned in Aristotle as the proposer of the motion is identical with Pythodorus, the general in 414–413 (Thucyd. VI 105), and points out that the choregus and the hipparch did not belong to the same tribe as this Pythodorus.

[8] Lysias XII 12 and 19. Xenophon, *Hellen.* II iii 2.

the bill was presented by one of Peisander's followers and was supported by an oligarch, there was nothing in the entire procedure to excite the suspicion of the people. The situation seemed to require the services of a special investigative committee, hence the most natural procedure was to elect a board of syngrapheis, according to the usual custom.

Thucydides gives the number of the commissioners as ten, but Aristotle states that the entire board numbered thirty, and was composed of the ten Probouli and twenty additional members. The evidence of other writers corroborates Aristotle's statement. Harpocration[9] calls attention to Thucydides' mistake and corrects it upon the authority of Androtion and Philochorus. The scholiast on Aristophanes *Lysistrata* v. 421 bears the same testimony. Thucydides then is clearly in error regarding the number of the commissioners.[10]

It is a most significant fact that the commission was composed of two elements, that represented by the Probouli, and that represented by the twenty other members. Aristotle's words, "the people shall elect twenty others in addition to the existing board of ten Probouli," indicate that the Probouli formed the nucleus of the commission and, as Harpocration suggests, Thucydides had in mind the Probouli, who were the chief constituent of the new commission, when he speaks of the syngrapheis as numbering only ten. Thucydides' mistake, then, can easily be explained, for his δέκα ἄνδρες represent the element of the commission which, at first, was the most important, but which, as the revolution progressed, was submerged

[9] *s. v.* συγγραφεῖς.

[10] Meyer, *Forsch.* II p. 417, who is one of the strongest partisans of Thucydides, admits the historian's mistake on this point. He minimizes it by saying that it is a matter of little significance. Koehler, *Berl. Akad.* 1900, p. 807, regards Thucydides' mistake of the utmost importance, and considers it sufficient reason for believing that Thucydides was misinformed regarding other details of the revolution. May, *Die Oligarchie der 400 in Athen im Jahre 411* (Halle 1907) p. 58, ascribes the error to Aristotle and believes that he has confused this commission with the one appointed in 404. Schoell, whose work, *De Extraordinariis Mag.* was published before the discovery of Aristotle's *Constitution*, decides against Thucydides on the basis of the evidence offered by Androtion and Philochorus in Harpocration. Volquardsen, *Verhandlung dtsche Phil. u. Schulmänner* 48 (1906) p. 124, and Constanzi, *Riv. di fil.* 29 p. 88, try to reconcile the conflicting statements of Aristot. and Thucyd. by assuming that the commission consisted of ten members with whom were associated in a subordinate way ten πάρεδροι. These twenty men were simply to coöperate with the Probouli.

and lost sight of in other oligarchic forces. The passage referred to above from Aristotle's *Rhetoric*[11] shows that the Probouli were considered an important element in the commission.

The combination of these two elements was especially ingenious and was designed by the oligarchs to serve a number of purposes. In the first place, it would tend to allay the suspicion of the people. The Probouli, during their two years of service, had won the trust and gratitude of the Athenian people. For the commission had been appointed at the time of Athens' greatest need and, through their conservative policies thus far, had brought about the safety of the state. So the people were all the more willing in this instance to entrust their case to a commission, the chief constituent of which was this respected and successful board of the Probouli. Peisander's question in Aristotle's *Rhetoric*,[12] then, is especially pointed, and the implication of that question that the Probouli had betrayed an important trust doubtless reflects the current Athenian view after the Revolution.

Further, it was highly expedient for the revolutionists to secure the addition of the Probouli to the commission. The Probouli, as the oligarchs were well aware, still continued to exercise their original functions, the chief of which was to act as a steering-committee for both the Ecclesia and the Senate. The addition of a board with such power would be a tremendous asset to the oligarchic forces, even if its members were not all thorough-going oligarchs. But the precise rôle which the Probouli played in the commission must be deferred for later discussion in another connection where it will be set forth in greater detail.

The fact that the oligarchs met with opposition from certain members of the Probouli made it necessary to introduce into the new commission a group of men, numerous enough and strong enough to insure an oligarchic majority. The twenty additional members were perhaps nominated by the clubs[13] and were introduced to over-

[11] III 18 p. 1419 a.

[12] *οἷον Σόφοκλης ἐρωτώμενος ὑπὸ Πεισάνδρου εἰ ἔδοξεν αὐτῷ ὥσπερ καὶ ἄλλοις προβούλοις καταστῆσαι τοὺς τετρακοσίους, ἔφη. "τί δέ; οὐ πονηρά σοι ταῦτα ἐδόκει εἶναι;" ἔφη. "οὐκοῦν σὺ ταῦτα ἔπραξας τὰ πονηρά;" "ναί" ἔφη. "οὐ γὰρ ἦν ἄλλα βελτίω."*

[13] Cf. Ballet, *Musée Belge* II (1898) p. 5. This is a further consideration against Caspari's belief that the syngrapheis were appointed at the time of Peisander's first arrival. It was not until after the meeting of the Ecclesia that Peisander began to organize the clubs for concerted action against democracy. It was vitally important for the revolutionists that there be an oligarchic majority in

ride any objection that might be raised by the pro-democratic or moderate element of the Probouli.[14] They were doubtless younger men than the Probouli and seemed capable of more active service in the oligarchic cause.[15]

To obtain all the details regarding the appointment of this commission, we must combine the accounts of Thucydides and Aristotle and supply the omissions of the one from the statements of the other. It is probable that Aristotle is quoting verbatim the decree of Pythodorus and that Thucydides is giving a paraphrase of it, at times inserting bits of information which he had picked up from other than purely documentary sources. Thucydides' account records the final and significant outcome of legislation and is colored to some extent by current *post factum* impressions, which enliven the narrative without detracting from its historical truthfulness. Aristotle, on the other hand, is mechanically copying documents, preserving for the most part their original wording, but without considering their actual historical significance. He interjects barely enough explanatory comment to make a coherent account.

Thucydides states that the commission was to report on an appointed day, a detail which is not included in Pythodorus' decree as quoted by Aristotle. The specification of the time at which a commission's report fell due is in accordance with the regular Athenian practice, as has already been shown.[16] Why Aristotle fails to note this detail can not be determined. It is hardly likely that he has omitted the words εἰς ἡμέραν ῥήτην from Pythodorus' decree. It is more probable that he omitted an entire measure, either a special bill or an amendment[17] providing for a called meeting of the

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the commission. This would have been impossible at the time of Peisander's first arrival. It would have been suicidal for the oligarchs at that stage of events to entrust their cause to a commission elected by popular vote.

[14] Calhoun, *Athenian Clubs* (Chicago dissertation 1913) p. 115 ff. shows how the clubs organized their forces for "packing" assemblies. There is no doubt that the same procedure was carried out on a smaller scale in the formation of this commission.

[15] Cf. Foucart, *Rev. Phil.* XVII (1893) p. 6.

[16] See p. 27.

[17] Thucydides' words εἶπον γνώμην κτλ. give a general summary of all legislation that was passed at the time of the appointment of the syngrapheis. The use of the singular γνώμην does not preclude the possiblity that various measures were introduced by Peisander and his followers which are not mentioned either by Aristotle or Thucydides.

Ecclesia at which, as a matter of course, the report of the syngrapheis would be the main item of business. The interval would be short, for the oligarchs wished to hasten the matter as rapidly as possible.

The statement of Thucydides' account that the syngrapheis were αὐτοκράτορες contains, verbally at least, still another deviation from the decree of Pythodorus as it appears in Aristotle. The exact meaning of this adjective in this connection is uncertain and can not be definitely correlated with the meaning of the word in any of its special applications to other officials, such as ambassadors or generals.[18] By the very nature of their office, generals were at times allowed to exercise their own judgment and to regulate their actions without reference to the authority of the people. Ambassadors, also, who were elected as πρέσβεις αὐτοκράτορες represented the people in their dealings with other cities or nations and were temporarily vested with the authority of the Ecclesia.[19] It seems, however, that no official who had the distinction of being αὐτοκράτωρ enjoyed absolute power or was entirely independent of the Senate and the Ecclesia or was unaccountable to the people.[20]

Although the word had a definite technical meaning when applied by the Ecclesia to a particular class of officials, like a great many other legal and political phrases, it had also various grades of non-technical meaning in popular usage. It is possible that Thucydides did not copy the word from the original decree which authorized the election of the syngrapheis, but picked it up from current accounts which characterized the commission as αὐτοκράτωρ with special reference to its conduct, its methods, and the scope of its activity.

Aristotle makes no explicit statement regarding the power of the commission, but the formal expression of the decree which he quotes, οἵτινες . . . συγγράψουσι περὶ τῆς σωτηρίας, is suggestive of consider-

[18] See Heyse, *De Legat. Attic.* p. 40 ff. and Poland, *De Legat. Graec. Pub.* p. 37 ff. See also Hauvette-Besnault, *Les Stratèges Athéniens* p. 72 ff.

[19] Heyse *op. cit.* shows that the authority of ambassadors was clearly defined by the people: πρέσβεις αὐτοκράτορες were employed for the final ratification of negotiations the terms of which were dictated by the Ecclesia. If any objection was made by the other contracting party to the terms proposed, the πρέσβεις αὐτοκράτορες had no authority to propose other terms, but were compelled to return and report to the Ecclesia.

[20] The occurrence of αὐτοκράτωρ beside ἀνυπεύθυνος in Plato, *Laws* 875B, seems to suggest that the two words are synonymous. But Plato is using them here in a general and non-technical sense. This passage can hardly warrant the supposition that αὐτοκράτωρ applied to an official means exemption from the εὔθυνα.

able latitude. The commission's sphere of activity (περὶ τῆς σωτηρίας) seems unlimited. It apparently enjoyed absolute discretionary power to propose measures of safety.[21] Every commission of syngrapheis, however, had power to make any recommendations it saw fit relative to the special task entrusted to it. But the distinctive feature of this commission is the scope of its activity. This alone would be ample justification for a popular impression which might become current that the syngrapheis enjoyed peculiar power which could best be characterized by the adjective αὐτοκράτωρ.

The phrase περὶ τῆς σωτηρίας of Pythodorus' decree may also contain some suggestion of the methods adopted by the commission for introducing their report which might justify Thucydides' use of the word. Wilamowitz[22] observes that περὶ σωτηρίας is the regular formula employed whenever the Senate put a general political debate on the day's program. In such cases, the Senate virtually abrogated its privilege of offering a probouleuma. The decision of the Senate to adopt such a course of action was theoretically considered a probouleuma. In Aristophanes' *Ecclesiazusae*[23] Praxagora is given opportunity to set forth her radical measures through the action of the Prytanies to dispense with a formal program and to throw the whole matter of the state's welfare open for general discussion in the Ecclesia. That the people took action regarding certain measures without a definite recommendation from the Senate is attested by a few inscriptions which have the introductory formula ἔδοξε τῷ δήμῳ instead of the usual ἔδοξε τῇ βουλῇ καὶ δήμῳ.[24] The sanction of the Senate to the election of a board whose special task was to introduce περὶ σωτηρίας measures might be considered an official probouleuma for all measures proposed either by the syngrapheis or by speakers in the Assembly. Such action on the part of the Senate would at least meet the formal requirements of the Athenian constitution.

But there are other more plausible considerations which tend to show that the syngrapheis could with a fair show of constitutionality subvert the probouleutic power of the Senate. As has already been indicated, the Senate exercised no veto power over a commission's re-

[21] This is Kahrstedt's view of the meaning of αὐτοκράτορες. See Kahrstedt, *Forsch. z. Gesch. d. Ausgehenden fünften u. des vierten Jahrhünderts* (Berlin 1914) p. 240 ff.

[22] *Aristot. u. Ath.* I p. 102 n. 7.

[23] v. 395 ff.

[24] Busolt, *Muell. Hdb.* IV p. 260 and note 7.

port. The Prytanies were compelled to present a commission's report to the people, irrespective of the Senate's action This, of course, does not imply that the Senate was deprived of all pre-deliberative power over a commission's report, but it does suggest the possibility that this practice in the hands of shrewd politicians could be used as a very effective check upon the probouleutic rights of the Senate.

The chief advantage of this commission, however, over the Senate lay in the fact that one-third of the commissioners belonged to the Probouli. The suggestion has been made earlier in this discussion that the addition of this board to the commission was a master stroke of diplomacy, designed not only to deceive the people, but to render most material aid to the revolutionary cause. The original province of the Probouli was to consider and to present *περὶ σωτηρίας* measures. They had come to assume some of the pre-deliberative functions of the Senate and had to some extent displaced the Prytanies. It can hardly be assumed that the oligarchs hoped to secure for the new commission the same power which the Probouli enjoyed. But they knew that the addition of the Probouli as the basis of the new commission would vest the entire body with more authority and would introduce an element which would tend to offset any interference from the Senate. In fact, even the nominal sanction of the Probouli to any measure would have all the force of probouleutic action of the Senate. In this, then, lies the secret of the commission's power and also of the unparalleled success of the oligarchic movement.

The commission had a very extensive sphere of activity; it enjoyed full discretionary power within that sphere; its recommendations as a board of syngrapheis were not subject to veto at the hands of the Senate; its measures could be presented directly to the Ecclesia.[25] All this is implied in Thucydides' use of the word *αὐτοκράτορες*. This connotation of the word is undoubtedly colored by popular *post factum* impressions of the commission and of the oligarchic movement in general. The use of the adjective introduces nothing into Thucydides' account that is at variance with the provisions of Pythodorus' decree as given by Aristotle.

[25] The prevailing view of investigators is that *αὐτοκράτορες* means power to introduce legislation directly to the Ecclesia without a probouleuma from the Senate. See Koehler, *Berl. Akad.* 1900 p. 807 n. 1; Lenschau, *Rhein. Mus.* 68, (1913) p. 203; Busolt III p. 291 n. 3 and p. 1477; Kuberka, *Klio* 7 (1907) p. 344; Von Mess, *Rhein. Mus.* 66 (1911) p. 370.

The concluding clause of Pythodorus' decree provides that any citizen who wished could make recommendations as well as the syngrapheis, in order that the people might make a selection of the best. These measures would be introduced as special motions or as amendments to the commission's report. This accords with the usual Athenian practice,[26] but is especially emphasized in Pythodorus' motion to give the schemes of the revolutionists a stronger appearance of legality, and at the same time to throw the Ecclesia open to oligarchic speakers. In fact, it was this very provision which paved the way for most of the radical legislation which Thucydides mentions as taking place at the Colonus assembly.

An amendment to Pythodorus' decree was made by Cleitophon to the effect that the syngrapheis give special consideration to the constitution of Cleisthenes. This amendment can not be considered a limitation upon the powers of the syngrapheis. It was doubtless prompted by the last clause of Pythodorus' motion and was proposed as a preliminary suggestion to the syngrapheis. The proposer of this amendment is apparently identical with the Cleitophon who is mentioned later by Aristotle[27] as being associated with Theramenes and other non-clubbists who supported the πάτριος πολιτεία. So the amendment perhaps represents the attitude of the moderates and may have been intended to serve as a check upon the tendencies of the extreme oligarchs.

The facts regarding the appointment of these thirty syngrapheis from the combined evidence of Aristotle and Thucydides may be summarized as follows: The entire commission consisted of thirty members (Aristotle). The ten Probouli formed the nucleus of the commission (Aristotle and, as is implied in Harpocration's reference, also Thucydides) to which were added twenty other members (Aristotle). They were required to take oath (Aristotle). They were given full power to introduce any measure they saw fit directly into the Ecclesia (Thucydides αὐτοκράτορες. Aristotle οἵτινες . . . συγγράψουσι περὶ τῆς σωτηρίας). The commission's report was due on a day which was agreed upon by the oligarchs (Thucydides). The special duty assigned to the commission was to consider a change of government and to formulate a constitution that would be best adapted to the needs of the city at that time (Thucydides and Aristotle). Although the commission was given full charge of these constitutional measures,

[26] See *supra* p. 18.

[27] *Const. of Ath.* XXXIV 3.

other citizens could make recommendations either as special measures or as amendments to the syngraphae. The commission was especially enjoined to examine the constitution of Cleisthenes with a view to adapting it to the emergency at that time (Aristotle).

A comparison of these data shows no serious inconsistency in our sources. Aristotle's account, based as it is almost entirely on documents, is more valuable for details, but both accounts regarding the appointment of this commission are to be considered as trustworthy and as supplementary to each other. Both accounts bear some indications of documentary origin and at least one such indication, it seems, is the technical use of the verb *συγγράφειν* in the sense illustrated by the Eleusinian inscription.[28]

Thucydides relates that the session of the Ecclesia at which the syngrapheis presented their report was held at Colonus, instead of in the usual place on the Pnyx. There is no doubt that all the attendant circumstances of this meeting were carefully planned by the oligarchs. Why they selected Colonus, and how they manipulated the convention of the Ecclesia, are matters that afford opportunity for endless speculation.[29] The Assembly may have been called in due form by the Prytanies, or, if Wilamowitz is correct in his supposition that the Probouli shared with the Prytanies the prerogative of assembling the people,[30] the Probouli, at the instigation of the oligarchs, may have assembled the Ecclesia at Colonus.

When we come to consider in detail the report of the commission, we are confronted by considerable difficulty arising from variations in the accounts of our sources. Thucydides, in most emphatic terms, differentiates between the syngraphae proper and other legislation introduced at the same time.[31] According to Thucydides, the sole recommendation of the syngrapheis was that the *γραφὴ παρανόμων* should be repealed and that every member of the Ecclesia be given unrestricted freedom in making proposals. Any individual attempting to contravene this provision should be liable to severe

[28] Cf. Aristot. XXIX 2 *οἵτινες ὀμόσαντες ἢ μὴν συγγράψειν . . . συγγράψουσι.* Thucyd. VIII 67. 1 *ξυγγράφεας . . . τούτους δὲ ξυγγράψαντας. . . .* Aristot. XXX 1 *οἱ μὲν οὖν αἱρεθέντες ταῦτα συνέγραψαν.* Eleusinian Inscript. 1. 3 *τάδε οἱ χσυγγραφῆς ξυνέγραψαν.* 1. 59 *περὶ δὲ τοῦ ἐλαίου τῆς ἀπάρχης χσυγγράφσας Λάμπων.*

[29] See Koehler, *Berl. Akad. 1900* p. 808 n. 1; Busolt, *Polop. Krieg* p. 1478 n. 1; Judeich, *Rhein. Mus.* 62 (1907) p. 308; Kahrstedt, *Forsch. zur Gesch. 5 u. 4 Jahrhundert* p. 243 ff.

[30] *Aristot. u. Ath.* II p. 345.

[31] VIII 67. 2: *καὶ ἐσήνεγκαν οἱ ξυγγραφῆς ἄλλο μὲν οὐδέν, αὐτὸ δὲ τοῦτο. . . .*

punishment. This recommendation, according to Thucydides, prepared the way for the real business of the day which was presented by Peisander. Peisander's motion made provision for the following: first, a complete constitutional change; second, abolition of state pay; third, a Senate consisting of four hundred members who were to be elected by coöption by a board of one hundred men. The hundred men in the first instance were to be nominated by five proedri.

Aristotle makes no distinction between the syngraphae and other legislation. He ascribes to the syngrapheis certain measures which Thucydides accredits to Peisander, and further, he introduces into the syngraphae certain legislation which is not in any way connected by Thucydides with the Colonus assembly. The syngraphae as given by Aristotle contains the following items: (a) repeal of the γραφὴ παρανόμων and detailed provision for enforcing its annulment; (b) appropriation of all incoming revenue only for purposes of war; abolition of state pay; (c) limitation of the franchise to a citizen-body of not less than five thousand who are best fitted financially and physically to serve the state; election of one hundred καταλογεῖς to nominate the Five Thousand.

Both Aristotle and Thucydides agree in according the repeal of the γραφὴ παρανόμων to the syngrapheis. In both accounts this measure stands out in sharp relief. Thucydides asserts that it was the only recommendation made by the commission. Aristotle, while not so emphatic in his statement, does differentiate the ἄδεια measure from the others. With the words, μετὰ δὲ ταῦτα τὴν πολιτείαν διέταξαν τόνδε τὸν τρόπον, he concludes the first item of the syngraphae and then apparently passes on to the rest of the report. However, the fact that in Aristotle's account there is a definite line of demarcation between the first recommendation made by the commission and other measures, and the fact that any citizen could make special motions or amendments, according to the last clause of Pythodorus' decree, gives rise to the possibility that Aristotle may have confused the exact sources of the legislation which followed the repeal of the γραφὴ παρανόμων. It is true that any amendment would be clearly indicated in the original document, but Aristotle, in his efforts to give his account more unity and coherence, and to break the monotony of his documentary quotations, interjects an explanatory comment and in so doing may have displaced the usual formula which marks an amendment. The subject of διέταξαν is indefinite and can refer

equally well to the syngrapheis or to the people in general.[32] The verb itself represents final action by the Assembly on all proposals made at the meeting. Such proposals might have been made by the syngrapheis as a body or by speakers in the Assembly. Members of the commission might address the Assembly and were not prevented from taking part in the debate or even making amendments to their own report.

In view of these possibilities, a situation somewhat as follows might be assumed: The syngrapheis, as Thucydides says, recommended only the repeal of the γραφὴ παρανόμων. This was ratified. Clear right of way was then allowed any speaker in the Ecclesia. But Peisander and the other oligarchic leaders[33] usurped the bema and introduced the legislation which resulted in the establishment of the oligarchy. These measures could theoretically be considered amendments to the syngraphae and, as such, could be presented directly to the Ecclesia without further probouleutic action than the sanction of the commission and the Probouli.

In both accounts there seem to be omissions of a more or less serious nature which tend to complicate still further the report of the syngrapheis. Thucydides makes no explicit statement regarding the Five Thousand. He does, however, in a previous chapter report that the oligarchs were agitating for a limitation of the franchise to not more than five thousand who must qualify in precisely the same manner as that prescribed by Aristotle's account.[34] The last clause of the measure ascribed by Thucydides to Peisander also assumes an enactment of some kind regarding the Five Thousand.

In all the measures mentioned by Aristotle which can be identified as being connected in any way with the commission's report, there is no provision for a deliberative council. There is sufficient evidence, both internal and external, to warrant the theory that Aristotle has confused his documentary sources and that Chapters XXX and XXXI

[32] Aristotle occasionally uses a verb in the third person plural to denote the Ecclesia. Cf. XXIX 3 ἵνα ἐξ ἁπάντων αἱρῶνται τὸ ἄριστον. The subject of διέταξαν is not necessarily explained by the words, οἱ μὲν αἱρεθέντες ταῦτα συνέγραψαν, XXX 1. Naturally the confusion into which Aristotle has fallen would lead him to suppose that the syngrapheis were responsible for all the measures.

[33] Kunle, *Untersuch, über Buch 8 Thucyd.* (Diss. Freiburg 1909) p. 50, thinks that all the oligarchic leaders mentioned by Thucydides in immediate connection with the establishment of the Four Hundred, excepting Antiphon, took active part in the discussion.

[34] VIII 65. 3.

are misplaced and should be associated with the constitutional changes introduced after the overthrow of the Four Hundred.[35] There is nothing either in Thucydides or Aristotle to substantiate the actual existence of the Five Thousand.[36] But a citizen-body that existed only theoretically could not elect the Four Hundred. They must have been chosen, then, in some such way as Thucydides describes. The motion which authorized this procedure was undoubtedly, as Thucydides says, part of the legislation that followed the commission's report and may have been deliberately curtailed by Aristotle because it seemed to contradict the documents which he intended to quote later.[37]

It seems remarkable that a commission clothed with such power and entrusted with an important task as these thirty syngrapheis should be directly responsible for no more than the repeal of the γραφὴ παρανόμων. But Thucydides himself seems to offer a plausible explanation for this. The task which was theoretically assigned to this commission had been done by Antiphon and his colleagues.[38] There is no doubt that the proposed oligarchic *régime* had been worked out in every detail, and all that was needed was some constitutional method of putting it into effect. A commission was needed by the revolutionists, not so much to formulate plans or to present legislation to the Ecclesia, as to clear the way for its presentation, and to insure its acceptance after it was presented. The commission merely kept up the pretense of doing the work assigned to it. And there was nothing to excite the suspicion of the people in the circumstance that the syngrapheis, after a very brief period of investigation, came up to the Ecclesia with no definite program to offer, but merely recommended that the entire citizen-body, with absolute freedom of speech, suggest measures of safety. Such action would doubtless make a strong appeal to the democratic sensibilities of the Ecclesia and would also be the most expeditious thing for the oligarchs.

Naturally, the oligarchs anticipated considerable opposition from the democratic Senate. It is hardly likely that the entire Senate

[35] Cf. Lenschau, *Der Staatsstreich d. 400*, *Rhein. Mus.* 68 (1913) p. 202 ff.

[36] Isoc. XVI 17 seems to refer to the Five Thousand and to indicate that they were never nominated.

[37] Cf. Lenschau p. 207.

[38] This is the chief objection to Caspari's theory that the syngrapheis were appointed at the time of Peisander's first visit, because they needed a longer time for their investigations. The "eleventh hour" appointment to which Caspari objects becomes perfectly intelligible in the light of Thucydides VIII 68. 1.

was so demoralized as to sanction such measures as Peisander proposed. The chief service which the commission rendered the oligarchic cause was to overcome this difficulty. It has already been suggested[39] how through the influence of the Probouli the entire commission could serve as a check upon all interference from the Senate. In fact, in this way the oligarchs usurped the probouleutic power of the Senate and thus could give an air of constitutionality to all their legislation.

This commission, after the analogy of the Eleusinian commission, would be dissolved *ipso facto* after its report had been ratified by the Assembly. Both the Probouli and the syngrapheis ceased to exist as distinct commissions after the Colonus assembly, but in some way they were merged into the oligarchic *régime*. Thucydides refers to extensive constitutional changes[40] which were introduced later by the Four Hundred. But it is likely that these were a part of the oligarchic κατὰ κράτος administration and were foisted upon the people by the Four Hundred with little pretense of legality.

By this means, then, the revolutionists of 411 achieved their object by abusing an institution which, from the best days of the Athenian democracy, had been an efficient instrument of administration. The fertile brain of Antiphon could have devised no more effective way to give a cloak of legality to the revolution of the Four Hundred.

[39] Cf. *supra* p. 50.

[40] VIII 70. 1. Kahrstedt, *Forsch. zur Gesch. 5 u. 4 Jahrhundert*, believes that this legislation was brought before the Ecclesia in due form by the syngrapheis in accordance with a probouleuma from the oligarchic Senate. Kahrstedt's view is based on the assumption that the revolutionists in their attempts to adhere to legal formality would not violate Athenian precedent and introduce, either through a syngraphae or a regular psephism, any radical constitutional change without a probouleuma from the Senate. Peisander's motion, then, according to Kahrstedt, would require a probouleuma before final ratification by the Ecclesia. But, as Kahrstedt argues, the oligarchs realized that the democratic Senate would never sanction Peisander's motion. Hence the *coup d'état* of Thargelion 14. After the Four Hundred had displaced the democratic Senate, Kahrstedt continues, they, in collaboration with the syngrapheis, prepared a probouleuma relative to Peisander's motion and proposed the changes referred to by Thucydides VIII 70. 1.

Kahrstedt draws certain inferences from the report of the Eleusinian commissioners whose report was sanctioned by the Senate. He appears to overlook the significant clause at the end of the inscription which virtually deprives the Senate of all veto power over a syngraphae. Kahrstedt's theory seems to resolve itself into the conclusion that the *coup d'état* by which the oligarchs usurped the probouleutic power of the Senate would appear less illegal to the average Athenian than the shrewd manipulation of constitutional means which would attain the same result.

CHAPTER V

THE καταλογεῖς

One of the most important items of legislation in connection with the report of the thirty syngrapheis was that providing for the limitation of the franchise to about five thousand citizens, those who could by "purse and person" best serve the state. An additional measure was proposed at the same time authorizing the election of a commission to nominate the Five Thousand. Aristotle's account quotes both these measures.[1] Thucydides, on the other hand, recognizing the Five Thousand as a mere non-entity in the events he is about to narrate, ignores all legislation relating to them. He does, however, make the observation that a limitation of the franchise to not more than five thousand citizens, who must qualify in exactly the manner described by Aristotle, was one of the prospective reforms of the oligarchic party.[2] And later, after passing on to matters of more vital historical importance, he states that the Five Thousand could be assembled only at the summons of the Four Hundred. This betrays knowledge on Thucydides' part, not only of some kind of legislation regarding the Five Thousand, but also of the fictitious rôle which they as a body were to play in the schemes of the revolutionists.

The commission authorized to nominate the Five Thousand, according to Aristotle, was to consist of one hundred members, ten from each tribe. They were to be over forty years of age and, before entering upon office, were to take solemn oath over full grown victims of sacrifice.

The only available source of information regarding this nominating commission, outside of Aristotle, is the pseudo-Lysian speech (XX), *For Polystratus*. The main facts of the case as they appear from the speech are as follows: Polystratus, during the oligarchic revolution, was a member of the Four Hundred and at the same time served as one of the katalogeis. He was elected by his tribesmen and, after taking oath, entered upon the double office of katalogeus and Senator. Polystratus, according to the speaker's statement, was somewhat averse to serving with the Four Hundred but took the oath of office and entered upon his duties as katalogeus under compul-

[1] XXIX 5.
[2] VIII 65. 3.

sion. In spite of his oligarchic associations, he availed himself of every opportunity to assist the democratic cause; he took no part in the deliberations of the Four Hundred; and finally when the katalogeis began to prepare the list of the Five Thousand, he secured the enrollment of nine thousand instead of five thousand. Polystratus' entire term of service extended over only eight days. He then sailed to Eretria and participated in the naval battle there. Being wounded, he returned to Athens and was, after the overthrow of the Four Hundred, assailed by his enemies and brought to trial on some charge connected with his account of the offices which he had held under the Four Hundred. He lost this suit apparently by default and suffered a heavy fine. His enemies were still dissatisfied and brought accusation against him a second time. This second trial furnishes the occasion for the pseudo-Lysian speech and is delivered by one of Polystratus' sons.

Throughout the entire speech, it is apparent that the speaker is attempting to gloze over Polystratus' relations with the Four Hundred and in so doing he confuses the defendant's activities as Senator and as katalogeus. It is clear that his election to the office of katalogeus was legitimate and apparently met with the approval of the people. His work with that body is represented as being of such a nature as to reflect his democratic sentiments and could be made a strong point of defense. On the other hand, the speaker realizes that Polystratus' relations with the Four Hundred as Senator were open to suspicion. This disadvantage he could overcome only by correlating his activities as katalogeus and Senator, and by putting the latter as far as possible on a level with the former. He tries to make Polystratus' legitimate and democratic service as katalogeus cast a favorable light on his more questionable activities as Senator with the Four Hundred. And this is the situation which gives rise to all the confusion in the speech.

Polystratus' case, according to the advocate's statement, is different from that of the other members of the Four Hundred because he was elected by his fellow tribes-men. This assertion, Wilamowitz suggests, can hardly be a falsification, because the jury had lived through the events of the oligarchic revolution and were too familiar with the entire history of the movement to be blinded by any misstatement of the facts.[3]

[3] *Aristot. u. Ath.* II p. 357.

Aristotle's account unfortunately throws no light on the manner in which the Four Hundred were elected. The provisional constitution, in which this is outlined, must be referred to the period after the overthrow of the Four Hundred and therefore can not be made the basis of any solution for the difficulties of the Polystratus speech. At the same time, the circumstances of Polystratus' election to the Four Hundred can not easily be brought into conformity with Thucydides' account. Various theories have been proposed to account for this perplexing situation. Blass,[4] before the discovery of Aristotle's *Constitution of Athens*, suggested that Polystratus was elected in the later stages of the revolution to fill a vacancy in the Four Hundred. Grote[5] holds a similar view and confines Polystratus' period of activity to the eight days preceding the battle of Eretria. Meyer[6] supposes that Polystratus belonged to the katalogeis, who, according to Aristotle, were elected by the tribes, and that this body was identical with the hundred men, who, as Thucydides says, were elected by the proedri and formed the nucleus of the Four Hundred. Wilamowitz[7] likewise believes that the words of the speaker for Polystratus imply that election to the office of katalogeus is equivalent to election to the Senate.

The situation is still further complicated by the fact that the advocate speaks in somewhat equivocal terms about the oath which Polystratus was required to take before entrance upon office. It is impossible to determine with accuracy whether the oath referred to is that required of the katalogeis or of the Senators, or of both.[8] Meyer[9] holds the view that the oath is identical for both offices. Wilamowitz believes that there is no reference to a senatorial oath, but that the oath is that prescribed for the katalogeis by the decree quoted by Aristotle.[10]

One fact alone seems to be clearly established by the speech, and that is, that Polystratus served as Senator and katalogeus at the

[4] *Attische Beredsamkeit* I p. 503.

[5] *Hist. of Greece* VIII p. 68.

[6] *Forsch.* p. 430.

[7] *Aristot. u. Ath.* II p. 357.

[8] The words (sec. 14), *οὗτος δὲ οὔτε ὀμόσαι ἤθελεν οὔτε καταλέγειν* seem to refer to the oath of the katalogeis. But in the following sentence the speaker apparently identifies the oath with Polystratus' entrance into the Bouleuterion. *καὶ ὤμοσε τὸν ὅρκον, ὀκτὼ ἡμέρας εἰσελθὼν εἰς τὸ βουλευτήριον. . . .*

[9] *Forsch.* II p. 428.

[10] *Aristot. u. Ath.* II p. 357.

same time. Whatever doubt may be felt regarding the manner in which Polystratus was elected to the Four Hundred, and whatever explanation may be offered to account for the difficulty raised by the advocate's statement, there appears no valid reason for discrediting, on the basis of this speech, the decree quoted by Aristotle regarding the katalogeis, or of suspecting that Polystratus was elected in some other way than that prescribed by the decree. Just how this involved entrance into the Bouleuterion as one of the Four Hundred, can not, perhaps, be satisfactorily explained from our present sources of information. It seems safe, also, to assume that the oath referred to is, as Wilamowitz suggests, that required of the katalogeis according to the decree quoted by Aristotle. Polystratus also fulfills the age requirements mentioned in Aristotle's account. The minimum age of the katalogeis was forty years. Polystratus was seventy.[11] Polystratus' election, then, seems to conform in all particulars to the decree quoted by Aristotle.

The speech for Polystratus shows beyond a doubt that the katalogeis were actually constituted as a commission to draw up a list of the Five Thousand. Whether this commission completed its task can not be determined from the speech. The fact that Polystratus is said to have compiled a list of nine thousand names proves no more than that a tentative list was prepared which could be produced on demand. Likewise, the fact that the speaker against Nicomachus[12] tries to prove his innocence of all dealings with the Four Hundred because he did not belong to the Five Thousand, can not be cited as evidence that the list was actually completed and published by the katalogeis. Naturally, the speaker in the Nicomachus case, if he did not belong to the oligarchy, like all other democrats during the revolution, was not informed of his connection with the Five Thousand, and had never seen the list, and therefore could truthfully say that he had had nothing to do with them. No fact seems to be more clearly established both by Thucydides and by Aristotle and by other minor sources than that the Five Thousand never existed except in the imagination of the democrats. The oligarchs wished neither the existence of the Five Thousand to be established, nor their non-existence to be made known.[13] No statement in all Thucydides' account affords clearer insight into the

[11] Lysias XX 10.
[12] Lysias XXX 8.
[13] VIII 92. 11.

intrigue by which the Four Hundred used the whole fabrication of the Five Thousand to strengthen their own cause by creating suspicion and distrust among their political opponents.

It is clear from Thucydides' account that the Four Hundred merely kept up the pretense of carrying out the decree providing for the nomination of the Five Thousand. They tried to convey the impression that they were conforming to the wishes of the people, and, at first, were so successful that the democratic adherents believed that the body was actually constituted. To produce this impression, and to use it so effectively, the Four Hundred, immediately after their election, must have taken some preliminary steps toward nominating the Five Thousand.

The inference may be drawn from Thucydides that at two periods during the course of the revolution the katalogeis were in evidence. Immediately after their election, they must have gone through some pretense of doing their work in order to delude the people into believing that the Five Thousand really existed. What they actually accomplished during this period of assumed activity, it is impossible to tell. They may have prepared a tentative list, but they certainly had no intention of publishing it.

As long as the fiction regarding the existence of the Five Thousand could be perpetuated, there was no need of serious work on the part of the katalogeis. But later the people began to be disillusioned; the democratic opposition became more aggressive; and an insistent demand was made that the body-politic be definitely organized. Then the Four Hundred saw that their ruse was no longer effective and that to pacify the revolt, they would be compelled to publish the names of the Five Thousand. At this time, it seems that the work of the katalogeis was something more than mere pretense. Thucydides[14] relates that on the day following the destruction of the fortress of Eetioneia, the Four Hundred met in the Bouleuterion in a panic stricken session and sent out a delegation to allay the excitement of the people by promising to publish the list of the Five Thousand on an appointed day in the near future. The session of the Ecclesia at which this promise was to be fulfilled was never held, but Thucydides' account gives ample reason for believing that the oligarchs had a list of some sort ready for publication.

There is nothing in the speech *For Polystratus* to indicate definitely in just what period of the revolution his eight days of service

[14] VIII 93.

fall. The speaker's chronological references are very vague. The sequence of events in the narrative, especially the close association of Polystratus' departure from Athens and the battle of Eretria seems to indicate that Polystratus withdrew just in time to participate in the battle.[15] The fact, too, that Polystratus is represented as having been elected to the Four Hundred and at the same time to the katalogeis by his fellow-tribesmen, precludes, on the basis of Thucydides' account,[16] the possibility of his being a member of the Four Hundred at the beginning of the revolution.

On the other hand, the statement of Polystratus' advocate that the defendant was not as culpable as other members of the Four Hundred who remained in active service until the end, seems to indicate that Polystratus severed his connection with the Four Hundred some time before the downfall of the oligarchy.[17] Further, the speaker's words *ὑμῶν ψηφισαμένων πεντακισχιλίοις παραδοῦναι τὰ πράγματα*[18] apparently refer to the decree passed at the Colonus assembly, and the addition of *καταλογεὺς ὤν* implies that Polystratus was elected at that time.

It is apparent that the inferences which may be drawn from the speech itself may be applied with equal force to either theory regarding the period of Polystratus' eight days of service. These inferences, however, must be considered in connection with evidence offered by Thucydides.

Thucydides' account, as has already been suggested, gives indications that the katalogeis were busy immediately after their election. This activity was, of course, mere pretense, but it served the purpose of the revolutionists. The work which Polystratus professes to have done could have been performed at this period of the commission's activity. To differentiate Polystratus' character from that of the other katalogeis, the speaker asserts that Polystratus individually drew up a list of nine thousand citizens. This statement, if taken at its face value, seems to support the theory in favor of the earlier period. At the later period, the katalogeis

[15] Sec. 14. *ἐπεὶ δὲ ἠναγκάσθη καὶ ὤμοσε τὸν ὅρκον, ὀκτὼ ἡμέρας εἰσελθὼν εἰς τὸ βουλευτήριον ἐξέπλει εἰς Ἐρέτριαν, καὶ ἐδόκει ἐκεῖ τὴν ψυχὴν οὐ πονηρὸς εἶναι ἐν ταῖς ναυμαχίαις. . . .*

[16] VIII 67. 3.

[17] Sec. 14. *τῶν δ' εἰπόντων ὑμῖν τἀναντία καὶ διὰ τέλους ἐν τῷ βουλευτηρίῳ ὄντων πολλοὶ ἀποπεφεύγασι.*

[18] Sec. 13.

were seriously engaged upon the preparation of the list. At that time they would work as a body and there would be little opportunity for such individual service as Polystratus appears to have done. The desperate situation which confronted the oligarchs compelled them to promise to publish the names of the Five Thousand. Naturally they would make the citizen-body as small as possible, and, in drawing up the list, they would, in all probability, adhere to the policy which they announced before the establishment of the Four Hundred, viz. of limiting the franchise to not more than five thousand. Every name on the list would be carefully considered. A haphazard list of nine thousand names, such as Polystratus is said to have presented, would have been out of the question at this time.

Further, the exigencies of the situation required that the oligarchs act speedily. The democratic revolt was gaining strength all the time and the people were getting impatient at the delay. So the oligarchs gave the impression that the list was all prepared and would be produced almost as soon as the Ecclesia could be summoned. It is likely, then, that the interval until the ἡμέρα ῥητή was very short. In this brief period the katalogeis could hardly do more than revise and put into final shape a list previously prepared.

In view of this situation, Polystratus' eight days of service can perhaps be assigned to the early period of the commission's activity. He could at that time more easily canvass the tribes and draw up a list of nine thousand which, of course, was to serve no other purpose than to assist in creating the delusion that the Five Thousand were actually nominated. Whether Polystratus was elected with the original commission, or, shortly after the Colonus assembly, was appointed by his tribe as a substitute in both the Four Hundred and the katalogeis, can not be determined.[19]

From the combined evidence of Thucydides, Aristotle, and the pseudo-Lysian speech *For Polystratus*, it is possible to get considerable insight into the nature and purpose of this commission of the katalogeis. Though elected by the tribes,[20] and in accordance with a popular decree, it was clearly oligarchic and was designed to serve the purposes of the revolutionists. Polystratus was undoubtedly a strong oligarch and the defense of his conduct but poorly

[19] Whibley, *Greek Oligarchies* p. 197 n. 21, believes that Polystratus was elected as substitute both as katalogeus and as Senator.

[20] Meyer, *Forsch.* II p. 430, suggests that the tribes were terrorized into electing oligarchic candidates.

disguises the fact. It is questionable whether his departure from Athens, in spite of the implications of the advocate's words, necessarily means segregation from the oligarchic movement or resignation from the Four Hundred, or even from the katalogeis. The commission was intimately associated with the Four Hundred, and, as Meyer and Wilamowitz suggest, may have been a part of the oligarchic senate. The katalogeis served as the tool of the revolutionists and, like the syngrapheis, formed a part of a well organized scheme to achieve a revolution through means which had all the appearance of legality.

CHAPTER VI

POLITICAL COMMISSIONS UNDER THE MODERATE GOVERNMENT AND THE RESTORED DEMOCRACY 411–410 B. C.

The unfortunate outcome of the battle of Eretria, Thucydides says, produced even greater depression and fear among the Athenians than the Sicilian disaster.[1] The political attitude of the people, especially after the later event, in the light of Thucydides' narrative is strangely analogous to that which prevailed in 413, when the Probouli were appointed as guardians of the state. The significant remark by which the historian characterizes the Athenians' chastened frame of mind after the Sicilian disaster, *πάντα τε πρὸς τὸ παραχρᾶμα περιδεές ὅπερ φιλεῖ δῆμος ποιεῖν ἑτοῖμοι ἦσαν εὐτακτεῖν*,[2] is equally applicable to the situation after the Eretrian defeat.

Thucydides relates that the people first took steps for defense against any aggression of their victorious enemies, and then turned their attention to the internal condition of their government. For this latter purpose, a session of the Ecclesia was called on the Pnyx, the usual gathering place of the democratic Assembly. Their first move was to depose the Four Hundred and give the government over to the Five Thousand. They agreed also to abolish state pay and voted that any violation of this provision should be regarded as accursed. Thucydides then adds that many subsequent sessions of the new body-politic were held, as a result of which a board of nomothetae was elected, and other matters relating to the government were enacted. The constitution which finally resulted from this series of political gatherings met with the historian's unqualified approval and was, as he says, the best form of government which Athens had enjoyed, at least during his life time. For, he explains, it was a moderate constitution, a mixture of oligarchic and democratic elements.[3]

Unfortunately, Thucydides has nothing more to say about this remarkable constitution and the board of nomothetae. Aristotle,[4] in his brief discussion of the period after the overthrow of the Four

[1] VIII 96. 1.
[2] VIII 1. 4.
[3] VIII 97.
[4] *Constit. of Athens* XXXIII.

Hundred, corroborates the facts given by Thucydides regarding the broad outlines of the constitution, and concurs with Thucydides' high opinion of its character, but, in this context, makes no mention whatever of the nomothetae.

There seems, however, as previously intimated, to be ample justification for a theory first suggested by Beloch,[5] and later developed by Lenschau[6] and Caspari,[7] to the effect that the two constitutions connected by Aristotle with the establishment of the Four Hundred really belong to the period after their overthrow. These two constitutions presuppose the existence of the Five Thousand, a body which Aristotle[8] himself admits was merely theoretical. It appears necessary, then, to refer these two constitutions to the time when the Five Thousand were actually constituted and met *in corpore*. And this, as Thucydides affirms, was after the overthrow of the Four Hundred, when the people resumed the sessions of the Ecclesia on the Pnyx.

These two constitutions, according to Aristotle,[9] were drafted by a committee of one hundred men chosen from the Five Thousand. Aristotle's use of the verb *ἀναγράφω*[10] in referring to the activity of this board suggests that its members may have been officially called *ἀναγραφεῖς*. They were nominated apparently at the Pnyx assembly, and proceeded to work at once. It is hardly likely that this board is identical with Thucydides' nomothetae who were elected after the Pnyx assembly and after the foundations, at least, of the new government had been laid. Aside from this consideration, the existence of a commission, in the following year, consisting of syngrapheis and anagrapheis, and in 403 of a board of nomothetae and anagrapheis, warrants the supposition that Thucydides' nomothetae and Aristotle's *οἱ ἀναγράψοντες τὴν πολιτείαν* were distinct bodies, but belonged to a single commission.

Regarding the competence of these anagrapheis, little more can be determined from Aristotle than that they drafted and pre-

[5] *Griech. Gesch.* II p. 71 n. 2.

[6] *Rhein. Mus.* 68 (1913) p. 202–214.

[7] *Journal of Hellenic Studies* XXXIII (1913) p. 15 ff.

[8] *Constit. of Athens* XXXII 3.

[9] *Ibid.* XXXI 1.

[10] XXXI 1. *τοὺς ἀναγράψοντας τὴν πολιτείαν*, and *οἱ αἱρεθέντες ἀνέγραψαν . . .* XXXI 1 and XXXII 1. *ἀνέγραψαν τὴν πολιτείαν*. Cf. Aristotle's use of *συγγράφω* in referring to the *συνγραφεῖς* XXIX 2 and XXX 1.

sented for approval the two constitutions which are given in Chapters XXX and XXXI. They may, also, have been authorized to enforce certain details of the new constitution. At any rate, they were instructed to divide the provisional senate of four hundred members into four divisions in readiness for the time when the four-senate arrangement of the definitive constitution should be put into effect.[11] The minimum age of these anagrapheis was thirty years, as may be inferred from the fact that they were eligible for membership in one of the four senates.[12]

From these scanty details furnished by Aristotle, the inference might be drawn that this board of anagrapheis was similar to the syngrapheis who were responsible for the establishment of the Four Hundred. Both were apparently delegated for the same task, viz. that of framing a new constitution. But a careful examination of the facts given by Thucydides and a reconsideration of the general nature of syngrapheis reveals a fundamental difference in the competence and the province of the two commissions.[13] Theoretically, a board of syngrapheis was appointed by the Athenians to make a thorough and independent investigation of a certain problem and to make specific recommendations regarding its solution. This was the fundamental idea of the Athenian commission system, as illustrated in the Eleusinian inscription. This idea was, as has been shown, abused and corrupted by the revolutionists in 411, who succeeded in appointing a board with peculiar powers and one whose policies they were able to regulate. It appears, then, that Aristotle's anagrapheis not only had little in common with the syngrapheis of 411, but not even with syngrapheis in general. In a word, the competence of Aristotle's anagrapheis did not include the right of investigation, or of formulating the results of an investigation into a body of recommendations. The duty of the anagrapheis was simply to write up a constitution based, not upon their own ideas, but upon motions made in the Assembly and ratified by the people. Thucydides' narrative bears out this theory.

It is a most reasonable inference from Thucydides' account that the meeting on the Pnyx after the battle of Eretria was a continuation of the session assembled at the Dionysiac theater, but

[11] *Constit. of Athens* XXXI 5.

[12] *Ibid.* XXX 3.

[13] Aristotle's use of the verb *συγγράφω* and *ἀναγράφω* seems to suggest a definite distinction in the functions of the two commissions.

which was interrupted by the alarm of the Peloponnesian approach.[14] The program of the moderates, who were in the ascendant after the Eetioneian episode, was undoubtedly carried over *in toto* from the Dionysiac meeting. The most important items of that program were: the definite establishment of the Five Thousand and a reorganization of the Four Hundred.[15] The constituency of the Five Thousand, it is true, was made rather flexible, more so, perhaps, than even the moderates themselves had originally intended, but the measure was, nevertheless, part of the moderate propaganda. The deposition of the Four Hundred meant simply the deposition of the radicals, for at this time the man in highest favor was Theramenes,[16] who, at the outset, had been one of the most aggressive members of the oligarchy.[17] The abolition of state pay was simply a reiteration and reënactment of a principle which had been in force throughout the entire rule of the Four Hundred. So, undoubtedly all the legislation which was passed at the Pnyx assembly originated, even before the battle of Eretria, with Theramenes and his party.[18]

Before the adjournment of the meeting on the Pnyx, the fundamental principles of the new moderate government were established and the anagrapheis were appointed to review and to formulate into a constitution all the legislation which was passed—and Thucydides doubtless gives only the necessary minimum of the constitutional details.

The two constitutions which are recorded by Aristotle as having been drafted by this board of one hundred men, *ἀναγράψοντες τὴν πολιτείαν*, make provision only for those organs of administration which were felt to be most necessary for the moment, such as the General Assembly, the Senate, military and finance officials. Many details obviously could not be incorporated into the constitution by the anagrapheis. In both constitutions there appears a conspicuous lack of detailed provision for one very important department, viz. the administration of justice. The provisional arrangement to which Aristotle refers,[19] was intended to have only a general and temporary application, and did not preclude the necessity of

[14] Cf. Lenschau p. 215.
[15] Thucyd. VIII 93. 2.
[16] *Constit. of Athens* XXXIII 2. Diodorus XIII 38. 2.
[17] Thucyd. VIII 68.4.
[18] Cf. Gilbert, *Beiträge* p. 326.
[19] *Constit. of Athens.* XXXI 1.

courts. During the rule of the Four Hundred, the heliastic courts were completely disorganized,[20] if not abolished, and this department of the government centered in the hands of the oligarchic Senate and of the magistrates. This situation would naturally create a certain amount of confusion regarding the exact status of the law[21] and irregularity in enforcing it. Many measures arbitrarily enforced by the revolutionists would come to have the force of law and were doubtless perpetuated as such until the time of the moderate government. There was need, then, of a commission with investigative and initiative powers to arrange these details pertaining to the restoration of the laws and the administration of justice. For this purpose, the nomothetae were appointed.

Although no reference to the constructive work of this commission can be found, a certain amount of inferential evidence may be derived from Thucydides' and Aristotle's representation of the political situation, and especially from accounts of legal actions which are known to have been brought under the moderate government. Immediately after the establishment of the new administration, the people were particularly active in prosecuting those of the Four Hundred who were considered most culpable. The trial of Antiphon, then, may be taken as a typical example of the legal processes in force under the moderate constitution. From the account of this trial, it is apparent that there were courts of justice at that time.[22] But the two fundamental principles of the moderate constitution, limitation of the franchise and the abolition of state pay, would at least tend to reduce the number of these courts.[23] The jurisdiction of more cases would therefore fall into the hands of the Senate, or would require special arrangement. From the situation which thus becomes apparent, at least the general conclusion may be drawn that the heliastic courts were not the same as under the Periclean democracy. The system of judicature appears to have

[20] Cf. Demos. XXIV 154: *ἀκούω δ' ἔγωγε καὶ τὸ πρότερον οὕτω καταλυθῆναι τὴν δημοκρατίαν, παρανόμων πρῶτον γραφῶν καταλυθεισῶν καὶ τῶν δικαστηρίων ἀκύρων γενομένων.*

[21] Gantzer, *Verfassungs und Gesetzrevision in Athen* (Diss. Halle 1894) p. 13, believes that this situation necessitated an entire revision of the *Corpus*. Schreiner's view, *De Corpore Juris Atheniensium* (Diss. Bonn 1913), p. 44 appears more reasonable.

[22] *Vita Antiphontis ex Vitis X Oratorum Plutarcho Adscriptis.*

[23] Xenophon, *Constit. of Athens* III 7, shows that reformers had contemplated smaller juries.

been a kind of compromise between the oligarchic method of the Four Hundred and the democratic popular dicastery. This suggests a definite field of constructive activity for this board of nomothetae.

It is apparent that it is this commission of nomothetae, in its functions and powers, and not the anagrapheis, which is similar to the syngrapheis who prepared the way for the oligarchy in 411. In fact, many investigators are inclined to regard the nomothetae as differing from the syngrapheis only in name.[24] At any rate, it is clear that these nomothetae bear no resemblance whatever to the officials who were charged with nomothesia in the time of Demosthenes.[25] They were not constituted to pass final jurisdiction on proposed legislation,[26] but their office, like that of the Eleusinian syngrapheis, was merely to make recommendations subject to the approval of the people.

The exact relations of Aristotle's anagrapheis and Thucydides' nomothetae is not altogether clear from the brief mention made of them. That their functions and powers were entirely distinct is quite apparent. But this does not preclude the possibility of their working in conjunction. The association of anagrapheis and syngrapheis in 410 and of anagrapheis and nomothetae in 403 suggests a similar relation between the nomothetae and the anagrapheis of 411. It appears a reasonable conclusion, then, that the nomothetae and the anagrapheis of 411 constituted distinct, yet supplementary units of a kind of double commission, such as those of 403 and 410 undoubtedly were. Certain other analogies may be drawn from these later commissions which may be applied to the earlier one to show more clearly the relation between the two boards of which it was formed. But *a priori* it may be suggested that the anagrapheis continued to act under the nomothetae in the capacity

[24] Cf. Schreiner p. 13; Frohberger-Thalheim Lysias XXX p. 42, n. 8.

[25] Cf. Guelde, *De Lysiae Oratione in Nicomachum* (Diss. Berlin 1882) p. 13.

[26] Gantzer, *op. cit.* p. 21, apparently accepts Grote's view that the syngrapheis and the nomothetae are entirely different. Grote's conclusion is consistent with his theory that the nomothesia of the fourth century was a survival of a Periclean institution. Gantzer, however, at one moment (p. 15), disclaims all relationship between the nomothesia of the fourth century and that of the fifth, and then again, makes the system of the fourth century the basis of his conclusion regarding the competence of the Thucydidean nomothetae, when he affirms that these nomothetae constituted a *letzte entscheidende Instanz* p. 16, or a *Gerichtshof* p. 18. The inconsistency perhaps should properly be ascribed to Schoell whose views Gantzer follows closely. Schreiner p. 12 shows the fallacy of Schoell's theory.

of a drafting commission. This at least is consistent with the impression of their activity which may be derived from Aristotle. No more, however, can be said on this point without anticipating a discussion of the two later commissions of which this board of 411 seems a prototype.

συνγραφεῖς AND *ἀναγραφεῖς* OF 410

The moderate constitution which is regarded with such unqualified approval by both Thucydides and Aristotle continued but a few months.[27] The brilliant victory of Cyzicus in the spring of 410 completely dispelled the feeling of despondency which had prevailed among the Athenians after the battle of Eretria and which was, in large measure, responsible for their acquiescence in a moderate government.[28] At the same time, the political reaction was further enhanced by the attitude of the *ναυτικὸς ὄχλος*, which was excluded from the franchise by the hoplite property census of the Five Thousand, but which now demanded their legitimate share in the government. This resulted in another change in the constitution of Athens and in the full restoration of democracy.

It might be assumed *a priori* that the transition from the moderate government to the full democracy would require the services of special commissions, the purpose of which would be essentially the same as those appointed the previous year. This assumption is fully confirmed by the discovery of unmistakable traces of such boards.[29]

The existence of a commission of syngrapheis is attested principally by the so-called decree of Demophantus quoted by Andocides.[30]

[27] Sept. 411 to the end of Feb. 410, according to Sievers, *De Xen. Hellen.* p. 17.

[28] Cf. Thucyd. VIII 93. 3.

[29] A discussion of these commissions occupies the larger part of Gantzer's dissertation. In the present treatment it will be necessary to repeat some things that Gantzer has said and to deal with the same source material, all of which, however, excepting that derived from Aristotle's *Constitution* and the Eleusinian inscription, is summarized by Schoell in his article, *De Extraordinariis quibusdam Magistratibus*. But Gantzer, in spite of the illuminating evidence afforded by the two sources which Schoell did not have at his disposal, falls into the same error as Schoell in supposing that these commissions were essentially legal commissions, i.e., appointed for a thorough revision of the laws. As Schreiner p. 44 indicates, they were a constitutional commission. In the present discussion, emphasis will be laid on this point. Gantzer's fundamental thesis that even before the Four Hundred, there was a crying need for a thorough revision of the laws and that the various constitutional changes in 411 and 404 were accompanied by attempts along this line is successfully contested by Schreiner.

[30] *De Mysteriis* 96–98.

The formula, *ἄρχει χρόνος τοῦδε τοῦ ψηφίσματος ἡ βουλὴ οἱ πεντακόσιοι οἱ λαχόντες τῷ κυάμῳ . . .*, indicates that the measure was passed shortly after the reëstablishment of the democracy, and the contents of the decree show that it was intended to prevent a recurrence of such constitutional changes as had taken place in 411. The general nature of the decree suggests that it was, perhaps, the conclusion of a series of measures providing for the details of the new democratic constitution.

Fortunately, there is preserved an inscription, though very fragmentary, which seems to record some of the legislation which may be supposed to have been preliminary to the decree of Demophantus.[31] The frequent repetition of the phrase, *ὁ δῆμος πληθύων*, in the inscription has induced scholars to assign it to the same period as the decree of Demophantus. In spite of the mutilated condition of the inscription, enough of its contents can be interpreted to show that it originally outlined in very detailed fashion the prerogatives of the Senate and the Ecclesia of the new democratic constitution. Though no distinctive preface, such as, *τὰδε οἱ συγγραφεῖς συνέγραψαν*, can be deciphered, it is very probable that this decree is the syngraphae of a constitutional commission.

Another measure which may possibly belong to this same syngraphae is referred to in a fragment of Philochorus.[32] It provided for a method of assigning seats in the Bouleuterion by allotment. The only reason for associating it with the work of this constitutional commission is that it reflects the spirit of Demophantus' decree and of the fragmentary inscription referred to above. It was probably directed against the enemies of the new democracy, for, as Gilbert[33] points out, it was designed to break up cliques and clubs in the Senate.

It is not necessary, however, to suppose that all the legislation which was introduced during the archonship of Glaucippos is to be ascribed to this board of syngrapheis.[34] If the assumption is correct that the two measures referred to above belong to the same category as the decree of Demophantus, there is sufficient ground for believing that there existed a commission whose distinctive duty was to propose constitutional legislation. Measures of this kind might, also, have been introduced by individual citizens either as

[31] *C. I. A.* I 57.

[32] Mueller, *Frag. Hist. Graec.* I p. 403 fr. 119.

[33] *Beiträge* p. 352. Cf. also Gantzer p. 47.

[34] This is apparently Gantzer's view.

special psephismata, or as amendments to the syngraphae. Besides, it is not altogether improbable that certain matters more or less intimately connected with the political situation were assigned to other commissions for investigation. Demophantus himself, as the words of the decree, *τὰδε Δημόφαντος συνέγραψεν*, imply, may have constituted a commission of one member, who was appointed either from the Assembly, or from the syngrapheis themselves to deal with some special feature of the general work assigned to the main body of the commission. Demophantus then would bear exactly the same relation to this board of syngrapheis that Lampon apparently did to the Eleusinian religious commission. That commissions were appointed in 410 with duties other than those immediately connected with the new constitution, may be inferred from an inscription belonging to the year of Glaucippus.[35] Here specific reference is found to a board of syngrapheis, but, as far as may be determined from the inscription, their work concerned only the administration of finance.

Naturally, the province of this constitutional commission would overlap to some extent into the legal field. A new constitution could not be introduced without disturbing the existing status of the law. But the work of these syngrapheis was concerned only with those laws which vitally affected the proposed constitution.[36] Their duty was not to make a thorough revision of the Athenian *Corpus Juris*,[37] but, first of all, to introduce a new constitution, and then make the existing laws harmonize with this constitution.

It is true that the new constitution which the syngrapheis of 410 prepared was simply a return to the familiar Periclean democracy. But nevertheless a great deal of constructive work had to be done by the commission in reorganizing all the machinery of de-

[35] *C. I. A.* I. 58. The lines concerned are as follows:

ει τῶν συγγραφέων εἰς τήν
[ν]ι τῶν ὀφ[ε]ιλομένων χρημ[άτων
ται ὡς πλεῖστα χρήματα εν] ἀκροπό[λε]ι κ

[36] Cf. Schreiner, *op. cit.* p. 44.

[37] Gantzer p. 29, on the contrary, believes that these syngrapheis were to carry on the work of revising the laws begun, but left unfinished by the nomothetae. But it is apparent that such revision of the laws as was done by the nomothetae was along entirely different lines from that undertaken by this commission in 410. Further, there is every reason to believe that the nomothetae completed the task for which they were appointed, doubtless to the entire satisfaction of the moderate administration.

mocracy which had fallen into disuse under the oligarchic and moderate governments. The heliastic courts were probably reëstablished on thoroughly democratic principles. A few broken lines in the inscription[38] discussed above convey the impression that a part of the syngraphae which seems to be recorded pertained to the judicial competence of the Senate. It is altogether likely that the corresponding powers of the Ecclesia, which would of course be exercised by the popular courts, were treated in the same way by the syngrapheis. This especially would necessitate a thorough investigation and, perhaps, considerable revision of the laws.

Contemporary with the syngrapheis of 410, there existed a board of anagrapheis. The general facts regarding the nature of this commission and its field of activity are derived from Lysias' speech, *Against Nicomachus*. A single inscription[39] also bears witness to the existence of anagrapheis in the following year and supplements the information given by Lysias.

From both sources, it is apparent that the anagrapheis constituted a commission and that their work was concerned primarily with a revision of the laws.[40] The speaker against Nicomachus asserts that the defendant was appointed as anagrapheus, first in 410, and again in 403.[41] Although the speaker dwells at greatest length on Nicomachus' activity as anagrapheus, after the Thirty, still he gives the impression that Nicomachus' task was essentially the same at both periods. The speaker states that Nicomachus' first term of office extended for six years.[42] It is possible to identify Nicomachus with the anagrapheis of 409, who, according to the inscription, were instructed to post Draco's law regarding voluntary homicide.[43]

[38] *C. I. A.* I 61. The lines referred to read as follows:
Frag. A. *βουλεύειν τοὺς πεντα[κ]ο[σί]ου[ς*
line 32 *πεντακοσίας δραχ[μάς]*
line 37 *[ἄνευ τοῦ δήμου τοῦ Ἀθηναίων πλη]θύοντος μὴ εἶναι θάν[α]τον.*

[39] *C. I. A.* I 61.

[40] Lysias XXX 2: *ἐπειδὴ δὲ τῶν νόμων ἀναγραφεὺς ἐγένετο . . . προσταχθὲν γὰρ αὐτῷ τεττάρων μηνῶν ἀναγράψαι τοὺς νόμους τοὺς Σόλωνος. . . .*
C. I. A. I 61: *ἀναγραψάντων οἱ ἀναγραφεῖς τὸν Δράκοντος νόμον. . . .*

[41] Cf. Frohberger-Thalheim Lysias XXX p. 42. Gilbert, *Beiträge* p. 330, thinks that Nicomachus was first appointed in 411 and belonged to the nomothetae. But if Nicomachus' term of office began in 411, he could more reasonably be identified with the anagrapheis of that time.

[42] Sec. 2.

[43] Cf. Guelde p. 6.

The speech, *Against Nicomachus*, yields a number of facts that throw considerable light on the nature of such a board as these anagrapheis. It establishes clearly the distinction between a commission and a magistracy.[44] The circumstances of Nicomachus' appointment and especially his prolonged term of office can be best explained on the ground that he was a member of a commission. The speaker asserts that Nicomachus was appointed only for four months, but succeeded in prolonging his office six years. No Athenian magistrate could arbitrarily prolong his term without reëlection, and even then it is questionable whether he would be reëlected for six successive years. Nicomachus, then, belonged to a commission similar in organization to the syngrapheis, and the real meaning of the speaker's words is that Nicomachus was clever enough to secure a vote of the Ecclesia allowing an indefinite extension of the time originally allotted that commission.

At the beginning of the speech, the speaker, with very obvious rhetorical exaggeration, groups together a number of charges, the cumulative effect of which is designed to cast serious reflections upon Nicomachus' entire career, both public and private. While the speaker might not recognize any illegality in Nicomachus' extended period of service *per se*, still he could give it an air of illegality by imputing evil motives to Nicomachus. And this is exactly what he tries to do. The fundamental charge against Nicomachus is malfeasance in office, but anything which appears to supplement this charge is presented in its worst light by the speaker. Hence the accusation: *ἀντὶ δὲ τεττάρων μηνῶν ἐξέτη τὴν ἀρχὴν ἐποιήσατο. . . .*

The office of anagrapheus, it appears, was subject to *εὔθυναι*.[45] This accords with the Athenian practice regarding all important trusts, especially those extending over a considerable period of time. Though it seems clear that some kind of accounting was expected of Nicomachus, it is doubtful whether this was required at regular intervals, annually or by prytanies. The speaker's sarcasm carries him into exaggeration and misrepresentation. The statement that other officials render account each month and the insinuation that the same

[44] The speaker has in mind this distinction in section 29: *ὑπογραμματεῦσι μὲν οὐκ ἔξεστι δὶς τὸν αὐτὸν τῇ ἀρχῇ τῇ αὐτῇ περὶ δὲ τῶν μεγίστων τοὺς αὐτοὺς ἐᾶτε πολὺν χρόνον κυρίους εἶναι.*

[45] Guelde p. 16 points out that if no account was required of Nicomachus, the jury would be well aware of the fact and the speaker would be bringing a charge of which the defendant could be easily exonerated.

might be expected of Nicomachus is designedly misleading. So perhaps all that may be concluded is that the anagrapheis were subject to εὔθυναι upon completing the task for which they were appointed. Nicomachus individually may have been called to account as soon as he was suspected of malfeasance. He was apparently brought to trial some time before the end of his first term of office and was fined,[46] but succeeded in postponing the εὔθυναι.

One of the charges made against Nicomachus is that he tampered with the laws, overstepped his authority in making alterations, and abused his office for mercenary purposes.[47] The speaker asserts that Nicomachus adapted the law to suit the convenience of litigants and was thereby responsible for inconsistent or conflicting statutes which caused considerable embarrassment for the courts.[48] During his second term of office, Nicomachus also introduced changes in certain religious laws which increased very materially the state expenditure for sacrifices.[49] These various accusations suggest that Nicomachus used his office in different ways for purposes of graft or sycophancy.

It is apparent, then, from the use which Nicomachus seems to have made of his office, that a certain amount of discretionary power was legitimately allowed the anagrapheis, and that their duties did not consist solely in mechanically copying or publishing the laws. The speaker's constant emphasis on Nicomachus' guilt in going beyond the competence of his office and the assertion that Nicomachus was brought to trial and fined by a group of superior officials[50] indicate that the anagrapheis were subject to some higher authority in revising the laws. It has been previously shown that the body which had investigative and initiative powers in constitutional and legal revision in 410 was the syngrapheis. The two bodies then worked in conjunction, the anagrapheis, as the name suggests, constituting a drafting commission under the guidance of the syngrapheis. The officials who are referred to as having brought Nicomachus to trial during his term were perhaps the syngrapheis. The chief duty of the anagrapheis was to formulate into definite laws the recommendations made by the syngrapheis, all the amendments and other measures that

[46] Section 3.

[47] Section 2: *καθ' ἑκάστην δὲ ἡμέραν ἀργύριον λαμβάνων τοὺς μὲν ἐνέγραφε τοὺς δὲ ἐξήλειφεν.* See Frohberger-Thalheim, note *ad loc.*

[48] Section 3.

[49] Sections 19 and 20.

[50] Siegfried, *De Multa quae ἐπιβολή Dicitur* (Diss. Berlin 1876) p. 45.

might pertain to the syngraphae.[51] Certain details of greater or less importance might be left to the discretion of the anagrapheis.[52] And not the least of their duties would be the careful publication of the laws in their final form.[53]

The exact nature of Nicomachus' malfeasance as anagrapheus of the religious laws now becomes more apparent, though not altogether clear. After the overthrow of the Thirty, Nicomachus served with the nomothetae in the same capacity as with the syngrapheis in 410. To this period of his activity belongs his work in connection with the religious laws. The phrase, *κατὰ τὰς συγγραφάς*,[54] without doubt, refers to the report of a commission which had been appointed some time before Nicomachus' second term as anagrapheus. Though not all the details of this commission's activity can be determined from the speech, it is clear that its duty was similar to that of the Eleusinian syngrapheis. It was appointed to investigate certain sacrifices and also the ancient laws pertaining to them and to make appropriate recommendations. The syngraphae which this commission presented, according to the speaker, retained the spirit of the ancient laws without, in any great degree, altering their detailed provisions, and, after being ratified by the people, virtually displaced the older laws. This syngraphae, it seems, was enforced for some time with very satisfactory results. This was the situation when the general revision of the laws was undertaken in 403. The religious laws apparently were included in this revision and Nicomachus was delegated to draft them. The only definite charge which the speaker makes against Nicomachus' performance of this duty is that the law which he drafted and posted on the stelae increased the sacrificial expense of the city by six talents and at the same time left many of the ancient sacrifices unprovided for. His words, however, insinuate a great deal more. Nicomachus, he wishes the jury to understand, wilfully tampered with the laws, ignored the syngraphae, and appropriated to himself considerable benefit from the city's increased

[51] Schreiner *op. cit.* p. 97, believes that the competence of the anagrapheis extended to a *δοκιμασία* of the laws. Guelde holds the view that the anagrapheis had charge of revising those laws only which required very little change.

[52] Schreiner p. 99.

[53] Schoell believes that this was the sole function of the anagrapheis. His theory that the office of anagrapheus was a subordinate *ὑπερεσία* is refuted by Guelde.

[54] Sections 17 and 21.

expenditure. The speaker's statements are such a confusion of insinuation and recrimination that it is impossible to tell just how far Nicomachus overstepped his authority. It seems clear, however, as Schreiner[55] points out, that the nomothetae who constituted the revising committee did not put the laws in final form, but only outlined their provisions in a general way. The details were entrusted to the anagrapheis. It was this feature of his commission that Nicomachus took advantage of. The speaker then makes a distinction between the syngraphae and the law which Nicomachus drafted and posted, and declares that Nicomachus' law is contrary to the spirit of the ancient law and is not as satisfactory as the syngraphae.

It is possible now to return to the anagrapheis of 411 and come to a more definite conclusion regarding the nature of their office. On the basis of evidence furnished by Aristotle and Thucydides, it has been shown that they were a drafting commission with little powers of initiative. The only task that can with absolute assurance be put to their credit is that referred to by Aristotle in connection with the two constitutions. But now the possibility becomes more assured that they acted under the guidance of the nomothetae and drafted into legal form the recommendations of that commission.

[55] *Op. cit.* p. 99: *Singulae autem commutationes ipsum ius non tangentes, nova iura in locum suum ordinemque inserenda, totius denique corporis forma usui iuris consultorum adaptanda, talia omnia perscriptoribus commissa erant.*

CHAPTER VII

THE THIRTY συγγραφεῖς OF 404 B. C.

The conditions which prevailed in Athens immediately after the battle of Aegospotami were especially propitious for a second oligarchic revolution. The terms of peace imposed by Sparta, though humiliating, did not deprive the conquered people of political liberty, but, theoretically at least, allowed them the exercise of their own discretion in the administration of their government. Aristotle and Diodorus[1] include among the conditions of peace the introduction of the so-called πάτριος πολιτεία and the latter adds that each of the warring factions of the city interpreted this condition in terms of its own political principles.[2] At all events, whether Lysander insisted upon the πάτριος πολιτεία as one of the conditions of peace, or not, the situation appealed to the anti-democratic factions as being most opportune for securing a constitutional reform.

The determined resistance against the oligarchs in 410 and the predominance of the democrats from that time on only temporarily checked the power of the oligarchic forces. After Aegospotami and the surrender of Athens, they appeared stronger than ever. Like the revolutionists of 411, they were ready to seize their day of opportunity and for that purpose were organized under the leadership of the political clubs.[3] A managing committee of five members, called ἔφοροι out of deference to Sparta, assumed full control of the oligarchic campaign.[4] During the interval between Aegospotami and the surrender of the city, the oligarchs perfected the organization of their forces. At this time, moderates and extremists can hardly be distinguished in their partisanship for peace and in their antagonism toward democracy.

In general, the method of procedure employed by the oligarchs in 404 was the same as that used seven years before. The oligarchs of 404, however, were more confident of success, and therefore felt less constrained to exercise caution in disclosing their real motives. The very helplessness of the people emboldened them and Lysander's

[1] *Constit. of Athens* XXXIV 3. Diodorus XIV 3. 2.
[2] XIV 3. 3.
[3] Calhoun, *op. cit.* p. 112.
[4] Lysias XII 43.

sympathetic attitude toward the oligarchic cause gave them renewed assurance. The Athenian Senate, too, was compliant to the plans of the oligarchs and coöperated with them in a system of terrorization, the object of which was to put out of the way the most determined leaders of the democracy. The revolutionists tried to insure still further the success of their plans by actually invoking the presence of Lysander, who at that time was at Samos continuing the blockade of the island.

With all these preliminary plans completed, and with Lysander at hand to give them moral support, or even military assistance, if necessary, the oligarchs still hesitated to introduce their *rêgime* by a *coup d'état.* Like the revolutionists of 411, they felt that their plans could be most successfully initiated through means which had every appearance of constitutionality. A session of the Ecclesia was called and the question of the πάτριος πολιτεία was raised. A motion was made by Dracontides that a board of thirty syngrapheis be appointed to recommend a revision of the constitution on the basis of the πάτριος πολιτεία.[5]

The anticipations of the oligarchs that their proposals would be met by most determined opposition from the democrats were fully realized when the bill of Dracontides was put to the vote. The measure itself was entirely constitutional and did not necessarily imply a radical change in the government. Dracontides merely proposed the election of a board of syngrapheis who were to draft a constitution, which was, of course, to be subject to the approval of the people themselves. The institution of syngrapheis had had a perfectly honorable history until 411, and, from the popular point of view, it was still respectable and trustworthy. The abuse of it by the revolutionists in 411 apparently had not shaken the faith of the people in syngrapheis as an efficient and reliable instrument of constitutional reform, for, in the very next year, they employed the institution again to restore the Periclean democracy. In fact, as will be shown more at length later in this discussion, it is questionable whether the masses of the people, until after their experiences

[5] Aristotle, *Constit. of Athens* XXXIV 3. Xenophon *Hellen.* II iii 2. Lysias XII 73. Xenophon is doubtless quoting the decree in the words, ἔδοξε τῷ δήμῳ τριάκοντα ἄνδρας ἑλέσθαι, οἱ τοὺς πατρίους νόμους συγγράψουσι, καθ' οὓς πολιτεύσουσι. His form of expression justifies the assumption that the board was technically called συγγραφεῖς. Cf. Pythodorus' motion, Aristotle XXIX 2. See Schoell, *De mag.* (Comm in Hon. Mom.) p. 464.

with the Thirty, ever fully appreciated the cunning use which was made of syngrapheis for revolutionary purposes. The loud murmur of dissent which greeted Dracontides' measure voices opposition, not so much to the motion itself, or to the institution of syngrapheis, as to the oligarchic party whom Dracontides represented. The whole environment of this meeting of the Ecclesia intensified the suspicion which the people naturally felt toward the oligarchs and gave more determination to their opposition.

Xenophon passes over in silence the details of the meeting at which Dracontides' measure was proposed. Lysias[6] and Diodorus[7] give animated accounts of the whole procedure. Though their views conflict in certain details, especially regarding the attitude of Theramenes in the matter at issue, they are, however, in agreement regarding the determined opposition raised by the democratic partisans. The vigorous debate which followed Dracontides' motion finally subsided when Lysander rose to speak. He had been introduced into the assembly by the oligarchs for just such an emergency as this. He brusquely reminded the Athenians that they were still at Sparta's mercy and declared that if they did not accede to Dracontides' bill, they would be more concerned for their lives than for the form of their government. The people intimidated by this threat, voted for Dracontides' measure and elected the thirty syngrapheis.

Once Dracontides' motion had passed the Ecclesia, the oligarchs took precaution that their own partisans formed a majority of the commission. According to Lysias,[8] ten were nominated by Theramenes, ten by the ephors, and ten by the general Assembly. Nominally each of the three political parties was equally represented, but, as a matter of fact, even the nominees of the Ecclesia, like those of the clubbists, were anti-democratic, for, as Lysias says,[9] the most loyal supporters of the democracy, realizing their inability to cope with the organized oligarchs, withdrew from the assembly before the vote was taken.

Thus the Thirty were inaugurated theoretically as a constitutional commission. As such, their competence, like that of the syngrapheis of 411, would include no more than to investigate the political needs of the state and make suitable recommendations to the Ecclesia.

[6] XII 71–77.
[7] XIV 3. 5 ff.
[8] XII 76.
[9] XII 75.

As far as can be determined, they did not have the distinction of being αὐτοκράτορες, as were their predecessors in 411. They were legally subject to the direction of the Senate and the Ecclesia. Xenophon, whose account is perhaps the most conservative, though influenced to some extent by his own personal political bias, summarizes the powers and duties of the Thirty in the following words: ἔδοξε τῷ δήμῳ τριάκοντα ἄνδρας ἑλέσθαι, οἱ τοὺς πατρίους νόμους συγγράψουσι, καθ' οὓς πολιτεύσουσι. There is a striking parallelism between the duties of the Thirty as set forth in this decree quoted by Xenophon and those of the syngrapheis in 411, who were instructed by Cleitophon's amendment to examine, in the course of their investigations, also the ancient laws of Cleisthenes.[10] Diodorus[11] doubtless confuses the powers which the Thirty later usurped with those which were legally allowed them, when he says: ἔδει δὲ τοὺς ᾑρημένους βουλήν τε καὶ τὰς ἄλλας ἀρχὰς καταστῆσαι, καὶ νόμους συγγράψαι καθ' οὓς ἔμελλον πολιτεύεσθαι.

The Thirty, like other boards of syngrapheis, doubtless were limited in their term of activity and were required by the measure of Dracontides to report to the Ecclesia on a specified day. This at least seems to be implied in Xenophon's accusation that the Thirty, though elected to recommend a constitution for the government of the city, continually postponed making the recommendations, or proposing the constitution.[12]

Not only did the Thirty deliberately prolong their office, but they ignored entirely the real purpose of their commission as syngrapheis.[13] Instead of drawing up a tentative constitution to be presented to the Ecclesia, they assumed the rôle of regents of the state. The rights of the Ecclesia were entirely ignored. A new Senate was appointed from the followers of the Thirty and the other offices were assigned to oligarchic adherents. In this way, the powers of the syngrapheis were extended far beyond those of a mere commendatory commission. Backed by Spartan arms, the Thirty usurped the sovereign power of the Ecclesia, the probouleutic rights of the Senate, and, with utter contempt for the γραφὴ παρανόμων, made such changes in the administration as suited their pleasure.

[10] Aristotle, *Constit. of Athens* XXIX 3.

[11] XIV 4. 1.

[12] *Hellen.* II iii 11.

[13] Aristotle XXXV 1: γενόμενοι δὲ κύριοι τῆς πόλεως, τὰ μὲν ἄλλα τὰ δόξαντα περὶ τῆς πολιτείας παρεώρων.

Thus the tyranny of the Thirty, like that of the Four Hundred, was introduced by the abuse of the institution of syngrapheis. In both revolutions the end sought and the means employed were the same, but the manipulation of the processes was slightly different in each case. In 411, the syngrapheis served as a mere tool for the revolutionists to prepare the way for reactionary legislation. The commission itself was subservient to a larger body and its policies were dictated by oligarchic leaders. In 404, the situation was somewhat different. At that time, the bold policy of the revolutionists was to establish from the outset a close oligarchy. Supported by Lysander and confident of success, they felt no need of compromising in any way with the democratic opposition. They therefore conformed with constitutional processes only long enough to get their project under way. They employed the same means as that used by the Four Hundred, not as a method of introducing legislation, but of establishing an outright tyranny. The syngrapheis themselves were the leaders of the movement, and, once appointed, overstepped the legitimate limits of their commission and usurped the reins of power.

In the manipulation of the syngrapheis, the methods of the Thirty appear somewhat crude in comparison with those employed by the Four Hundred. It has already been shown how, in the earlier revolution, the reactionaries exercised consummate ingenuity in organizing the syngrapheis and in manipulating the commission in such a way as to disguise their every movement under a cover of constitutionality. The Thirty, on the other hand, appointed by a psephism, which never would have passed the Assembly without the overawing presence of Lysander, initiated their *régime* through brute force rather than by crafty diplomacy. This difference in method is perhaps typified by the contrast in the character of the leaders who directed the oligarchic cause at each of the two revolutionary periods, the contrast, for example, between Antiphon and Critias.

It is not necessary in this connection to trace the subsequent history of the Thirty. They soon entered upon a career of high-handed violence which became revolting even to certain of their own number. The moderates, under the leadership of Theramenes, demanded a more liberal form of government.[14] The result was the

[14] Aristotle, *Constit. of Athens* XXXVI 1. Xenophon, *Hellen.* II iii 16–18.

extension of political rights to a select body of three thousand whose property qualifications[15] were apparently similar to those of the Five Thousand under the moderate government that followed the downfall of the Four Hundred. The bestowal of the franchise upon so limited a number did not meet with the approval of Theramenes, but it was an important concession on the part of the extremists. The list[16] of the Three Thousand was drawn up apparently by the Thirty themselves. At any rate, there is no trace of a commission of katalogeis such as existed under the Four Hundred, and the Thirty appear to have had final jurisdiction over the list.[17] After it was prepared, they deliberately postponed publishing it and retained it in their own keeping, making erasures and substitutions to suit their pleasure.[18]

After a period of eight months, the rule of the Thirty was brought to a close as the result of discord among the oligarchs themselves combined with the vigorous opposition of the democrats under the leadership of Thrasyboulus. The moderates again became predominant and insisted upon a more equitable administration of the state. So the tyranny of the Thirty was dissolved by vote of the Three Thousand[19] and a new ruling body consisting of ten members was forthwith appointed.

[15] Xenophon's words, *τῇ ὑστεραίᾳ εἰς τὸ Ὠιδεῖον παρεκάλεσαν τοὺς ἐν τῷ καταλόγῳ ὁπλίτας καὶ τοὺς ἄλλους ἱππέας*, II iv 9, imply that the hoplite property census was required of the Three Thousand and that the Knights enjoyed the franchise without being formally enrolled on the *κατάλογος*. It has been inferred from Aristot. XXXV 1, *καὶ τὰς ἄλλας ἀρχὰς καταστήσαντες ἐκ προκρίτων ἐκ τῶν χιλίων*, that the Knights assisted in the administration of the state. Cf. Sandys, *ad loc.*

[16] The names of the Three Thousand appear to have been enrolled on a *κατάλογος*. Cf. Xen. *Hellen.* II iv 9, *τοὺς ἐν τῷ καταλόγῳ ὁπλίτας*. Those excluded from the list are mentioned in Xen. *Hellen.* II iii 20, *τῶν δ' ἔξω τοῦ καταλόγου ἄλλων. . . .* Isocrates XVIII 17 and XXI 2, *εἰς δὲ τὸν μετὰ Λυσάνδρου κατάλογον*, and Lysias XXV 16, *εἰς τὸν κατάλογον*, perhaps do not refer to the roll of the Three Thousand, but to a special proscription list. Cf. Grote VIII p. 247. Scheibe, *Die Oligarchische Umwälzung* (Leipzig 1841) p. 72 n. 27, holds the opposite view.

[17] The incident recorded by Xenophon, *Hellen.* II iii 51, in connection with the trial of Theramenes conveys the impression that even after the list of the Three Thousand was published, the Thirty retained the right of striking out the names of undesirable individuals.

[18] Aristotle, *Constitution of Athens* XXXVI 2.

[19] Xenophon, *Hellen.* II iv 23.

CHAPTER VIII

THE TEN

In this commission of Ten, each of the tribes was represented.[1] The election, however, was made by the Three Thousand. Unlike the Thirty, they were not appointed as a constitutional commission. Apparently the oligarchic machinery organized by the Thirty was to be retained,[2] and the Ten were to serve as a general administrative committee.

One of the chief duties assigned to this commission was that of bringing to an honorable close the struggle with the rebellious democrats under Thrasyboulus. There was at this time a strong tendency on the part of the moderates toward reconciliation with the Peiraeus party and apparently the election of the Ten was the outgrowth of that sentiment. Aristotle characterizes the commission as *αὐτοκράτορας ἐπὶ τὴν τοῦ πολέμου κατάλυσιν*, implying that it had extraordinary powers for concluding negotiations of peace.[3]

Although the Thirty were regarded with almost universal dissatisfaction, certain individual members appear to have been held in favor and were reëlected to the succeeding commission. Eratosthenes and Pheidon were among this number. Other members of the Ten are mentioned by Lysias[4] as being bitter foes of Charicles and Critias, and therefore presumably favorable to the Peiraeus party and the movement for peace.

The task allotted this commission was a very difficult one. Before any effective resistance could be made against Thrasyboulus and his army of exiled democrats, and before terms of peace could be negotiated, it was necessary to harmonize the discordant elements in the city itself. The town party, as Xenophon says, was in a state of utter confusion and was completely demoralized by the suspicion and distrust with which the various factions regarded one another.[5] It is apparent that, although the Thirty had withdrawn to Eleusis,

[1] Xenophon, *Hellen.* II iv 23.
[2] Scheibe, *op. cit.* p. 120.
[3] *Constit. of Athens* XXXVIII 1. Cf. also Diodorus XIV 33. 5.
[4] XII 55.
[5] *Hellen.* II iv 24.

the party strife still continued between the moderates and the extreme oligarchs.

In the face of such a situation, it is not surprising that the work of this board as a body was later regarded as a failure. All the historical sources of this period agree that at first the Ten abused their commission and, instead of exerting their efforts toward bringing the civil discord to an end, they made conditions worse. They tried first of all to bribe Thrasyboulus by offering him a share in the oligarchic government.[6] Failing in this, they turned to Sparta for aid. Lysias says they subsidized the whole world for the destruction of the city and would have succeeded in this villainous purpose, if a few brave and loyal men had not offered most determined resistance.[7]

Aristotle's account of the history of the Ten contains a strange variation from the other sources.[8] After relating briefly how the commission failed to fulfill the object for which it was elected and how, after securing Spartan assistance, they began to follow in the foot-steps of the Thirty in a reign of terror, Aristotle adds that a second commission of ten was elected to displace the original board and that through the efforts of this second commission, terms of reconciliation were at last effected between the warring factions, and Thrasyboulus and the exiled democrats were restored.

There is little doubt that Aristotle for some reason has erred in this particular.[9] Aside from the fact that none of the other sources recognize a second board of Ten, Aristotle's account itself, as Meyer points out, contains a slight inconsistency. After describing the circumstances under which this second commission was appointed and the general satisfaction which was felt at the successful issue of its efforts, Aristotle then passes on[10] to a discussion of the amnesty, and mentions the various officials who were excluded, if they did not satisfactorily pass the εὔθυναι. Among those excluded on this condition, Aristotle refers to the Ten, but makes no distinction between the first and second commission, as the strict logic of his account seems to require.

[6] Justinius V 9.

[7] XII 60.

[8] *Constit. of Athens* XXXVIII.

[9] Such is the view of Meyer, *Gesch. d. Alt.* V p. 40 and of Boerner, *De Rebus a Graecis Gestis* (Diss. Göttingen 1894) p. 62 ff. For the opposite view, see Von Mess, *Rhein. Mus.* 66 (1911) p. 383 ff.

[10] *Constit. of Athens* XXXIX 6.

But the most damaging bit of evidence against Aristotle on this point is that derived from a speech of Isocrates. Aristotle refers to Rhinon as a prominent member of the second commission of Ten and speaks with the very highest approbation of his services to the state and mentions especially the fact that he passed the εὔθυναι in a satisfactory manner under the democracy which followed the rule of the oligarchs. Isocrates in the speech *Against Callimachus* represents Rhinon as remaining in Athens under the restored democracy and thus far agrees with Aristotle. But at the same time, he speaks of him as belonging to the Ten who succeeded the Thirty and thus clearly shows that he is not aware of the existence of a second commission.

For the solution of the difficulty raised by Aristotle's account, it is highly significant that nearly all ancient writers who deal with the Ten emphasize the state of faction which prevailed at this time in the city itself. Reference has been previously made to this discordant state of affairs as one of the most serious difficulties which confronted the Ten at the outset of their career. Perhaps an explanation of Aristotle's statement regarding the second Ten may be found in this situation, There is no doubt that the Ten made their initial mistake in failing to reduce to order the civil strife in the city itself. Instead of assuming the attitude of arbitrators in the struggle, they allowed themselves to be carried away by their own political preferences and soon the commission itself was in the same state of faction as the resident citizens. It is likely that there was on the commission a strong representation of the oligarchic extremists. At least it is known that Eratosthenes and Pheidon had been members of the Thirty, and Lysias[11] more than intimates that they never fully renounced their former affiliations. It was this faction of this commission and of the town party that connived with the Thirty at Eleusis and, in conjunction with them, sent an embassy to Sparta for military and financial aid.[12] On the other hand, the moderate wing of the town party which favored peace and the restoration of the exiles was also represented in the commission. This division of interests would naturally discredit the work of the entire commission and after peace negotiations were actually begun by Pausanias, it is probable that the Ten as a body were completely

[11] XII 54 and 55.

[12] Xenophon, *Hellen.* II iv 28.

ignored. Lysias refers to a band of loyal men who saved the city.[13] Xenophon tells of an embassy of private citizens who were sent from the city with certain representatives of the Peiraeus party to Sparta to negotiate terms of peace.[14] It is not unlikely that individual members of the Ten, such as Rhinon, who were especially zealous in their partisanship for the moderates took an active part in bringing about a state of peace. In this way the impression may have become current that the original Ten were deposed and that a second board was appointed which secured the intervention of Pausanias and finally brought about peace and the restoration of Thrasyboulus and the exiles. Aristotle's account then apparently perpetuates an error which may have found its way into some work of the Atthidographi which served as one of the sources of the πολιτεία.[15]

Both the Ten and the Thirty were required to render account of their office.[16] Only on condition that their εὔθυναι were satisfactory were they allowed to enjoy the benefits of the amnesty which was declared by Thrasyboulus and the restored democrats. These accounts, as has been previously pointed out,[17] were required of the Thirty as a ruling body and not as a constitutional commission. The Ten, in the same way, were held responsible for their administration of the government and for their exercise of the usurped power which they took over from the Thirty.

[13] XII 60.

[14] *Hellen.* II iv 28.

[15] Cf. Boerner, *op. cit.* p. 65.

[16] Andocides I 90, refers to the Thirty as being excluded from the amnesty if they did not render account. Aristotle, *Constit. of Athens* XXXIX 6, includes the Ten also in this provision.

[17] See p. 28 ff.

CHAPTER IX

CONCLUSION

In the preceding pages, the history of political commissions has been traced through the year 404 B. C. The early application of the commission principle for political purposes has been seen in the cases of Draco and Solon. The development of this principle into a definite institution came with the growth of the Athenian democracy. In Pericles' time commissions had a wide application for purposes of administration and political reform. The type that became best adapted for general political purposes was that known as sygrapheis. It has been shown how the general nature of this form of commission made it a convenient instrument both for legitimate political purposes as well as for the revolutionary schemes of the oligarchs.

After the overthrow of the Thirty, the Athenians never resorted again to commissions of syngrapheis for any purpose. In all the legislative reform under Eucleides the board vested with investigative authority was not called syngrapheis, but was a section of the nomothetae, the general revising committee.

The later attitude of the Athenians toward syngrapheis is clearly reflected in Isocrates' *Areopagiticus*. Here the speaker is advocating political and administrative reform and recommends the restoration of the Areopagus as the safest means of attaining these reforms. He contrasts his proposals with the methods employed in former times, emphasizing the fact that he is not suggesting the appointment of a board of syngrapheis.[1] This was undoubtedly designed to make a special appeal to the Athenians who had fresh in mind the outrageous abuse of the institution of syngrapheis in 411 and 404. Isocrates' reference makes it clear that the Athenians, after 404, experienced a reaction against the institution of syngrapheis which, under the Periclean democracy, had been an efficient and respectable instrument of political reform, but which, in the hands of unprincipled politicians, had proved the ruin of the democracy which had been the source of its existence and development.

[1] Isocrates VII 58.